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JACK IN THE BOX INC., a Corporation of Delaware

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

JESSICA GESSELE, ASHLEY
GESSELE, NICOLE GESSELE and
TRICIA TETRAULT, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

JACK IN THE BOX INC., a Corporation
of Delaware,

Defendant.

CV. CV 10-960-ST

DEFENDANT'S RESPONSES TO
PLAINTIFFS' REQUESTS FOR ADMISSION

TO: Plaintiffs Jessica Gessele, Ashley Gessele, Nicole Gessele, Christina Luchau, and Tricia
Tetrault, and their attorney.

Pursuant to Rules 26, 33, 34, and 36 of the Federal Rules of Civil Procedure, Defendant
Jack in the Box, Inc. ("Defendant") hereby submits its responses, answers, and objections to
Plaintiffs' Request for Production of Documents, as follows:

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PAGE 1 – DEFENDANT'S RESPONSES TO PLAINTIFFS'
REQUESTS FOR ADMISSION

Littler Mendelson, P.C.
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Portland, Oregon 97204
Telephone 503.221.0309

Defendant's Response to each Request for Admission specifically incorporates these General Objections by this reference.

REQUESTS FOR ADMISSION

REQUEST NO. 1: Admit that each Plaintiff signed an On-Duty Meal Policy agreement when they were hired, reading, "I hereby agree with my employer that on those sporadic occasions when the nature of my work prevents me from being relieved of all duties during my required meal period, I shall be paid for those meal periods. I may revoke this agreement in writing at any time."

RESPONSE: Admit.

REQUEST NO. 2: Admit that each of your Oregon hourly employees hired during 2003 signed an On-Duty Meal Policy agreement when they were hired, reading, "I hereby agree with my employer that on those sporadic occasions when the nature of my work prevents me from being relieved of all duties during my required meal period, I shall be paid for those meal periods. I may revoke this agreement in writing at any time."

RESPONSE: In response to this request, Defendant objects on the grounds that it is unduly burdensome in that in order to ascertain whether every single Oregon hourly employee hired during 2003 signed an On-Duty Meal Policy agreement, Defendant will have to physically check every employee file. Defendant further objects on the grounds that the burdensome nature of ascertaining the response to this request is premature given that no class has been certified. Without waiving any of its objections, Defendant responds that the On-Duty Meal Policy agreement was part of the on-boarding procedure for Oregon hourly employees in 2003.

REQUEST NO. 3: Admit that each of your Oregon hourly employees hired during 2004 signed an On-Duty Meal Policy agreement when they were hired, reading, “I hereby agree with my employer that on those sporadic occasions when the nature of my work prevents me from being relieved of all duties during my required meal period, I shall be paid for those meal periods. I may revoke this agreement in writing at any time.”

RESPONSE: In response to this request, Defendant objects on the grounds that it is unduly burdensome in that in order to ascertain whether every single Oregon hourly employee hired during 2004 signed an On-Duty Meal Policy agreement, Defendant will have to physically check every employee file. Defendant further objects on the grounds that the burdensome nature of ascertaining the response to this request is premature given that no class has been certified. Without waiving any of its objections, Defendant responds that the On-Duty Meal Policy agreement was part of the on-boarding procedure for Oregon hourly employees in 2004.

REQUEST NO. 4: Admit that each of your Oregon hourly employees hired during 2005 signed an On-Duty Meal Policy agreement when they were hired, reading, “I hereby agree with my employer that on those sporadic occasions when the nature of my work prevents me from being relieved of all duties during my required meal period, I shall be paid for those meal periods. I may revoke this agreement in writing at any time.”

RESPONSE: In response to this request, Defendant objects on the grounds that it is unduly burdensome in that in order to ascertain whether every single Oregon hourly employee hired during 2005 signed an On-Duty Meal Policy agreement, Defendant will have to physically check every employee file. Defendant further objects on the grounds that the burdensome nature of ascertaining the response to this request is premature given that no class has been certified.

Without waiving any of its objections, Defendant responds that the On-Duty Meal Policy agreement was part of the on-boarding procedure for Oregon hourly employees in 2005.

REQUEST NO. 5: Admit that each of your Oregon hourly employees hired during 2006 signed an On-Duty Meal Policy agreement when they were hired, reading, “I hereby agree with my employer that on those sporadic occasions when the nature of my work prevents me from being relieved of all duties during my required meal period, I shall be paid for those meal periods. I may revoke this agreement in writing at any time.”

RESPONSE: In response to this request, Defendant objects on the grounds that it is unduly burdensome in that in order to ascertain whether every single Oregon hourly employee hired during 2006 signed an On-Duty Meal Policy agreement, Defendant will have to physically check every employee file. Defendant further objects on the grounds that the burdensome nature of ascertaining the response to this request is premature given that no class has been certified. Without waiving any of its objections, Defendant responds that the On-Duty Meal Policy agreement was part of the on-boarding procedure for Oregon hourly employees in 2006.

REQUEST NO. 6: Admit that each of your Oregon hourly employees hired during 2007 signed an On-Duty Meal Policy agreement when they were hired, reading, “I hereby agree with my employer that on those sporadic occasions when the nature of my work prevents me from being relieved of all duties during my required meal period, I shall be paid for those meal periods. I may revoke this agreement in writing at any time.”

RESPONSE: Deny.

waiving any of its objections, Defendant denies this request in regard to Oregon employees in the specified timeframe.

REQUEST NO. 21: Admit that each of your hourly employees hired during 2012 signed an On-Duty Meal Policy agreement when they were hired, reading, “I hereby agree with my employer that on those sporadic occasions when the nature of my work prevents me from being relieved of all duties during my required meal period, I shall be paid for those meal periods. I may revoke this agreement in writing at any time.”

RESPONSE: Deny.

REQUEST NO. 22: Admit that none of the Plaintiffs ever revoked an On-Duty Meal Policy agreement.

RESPONSE: Defendant is without information sufficient to admit or deny this request, and therefore denies it on that basis.

REQUEST NO. 23: Admit that as part of each hourly employee’s training, they are told that their meal periods are 30 minutes long.

RESPONSE: Defendant objects to this request on the grounds that it is overbroad and unduly burdensome. Defendant further objects on the grounds that this request seeks information related to employees outside the state of Oregon and is therefore not reasonably calculated to lead to the discovery of admissible evidence, as Plaintiffs’ meal period claims are state-specific. Defendant further objects on the grounds that this request seeks pre-certification discovery beyond the Oregon region to which pre-certification discovery is limited. Without

waiving any of its objections, Defendant admits that its Oregon employees are trained on the Company's rest and meal policies, and that its policy provides that meal breaks are to be 30 minutes long. Without conducting an exhaustive individualized inquiry, Defendant is without knowledge sufficient to admit or deny the request as to what each Oregon employee was actually trained.

REQUEST NO. 24: Admit that Oregon law and its interpretive rules require you to pay your Oregon hourly employees for any break that is less than 30 minutes long.

RESPONSE: Defendant objects to this request on the grounds that it calls for a legal conclusion. Defendant further objects to this request on the grounds that this request is overbroad in time, as the regulations in question did not change until 2010. Without waiving any of its objections, Defendant denies that Oregon regulations purported to require Defendant to pay employees for meal breaks less than 30 minutes long prior to July 2010, and admits that said regulations purport to require payment for meal breaks less than 30 minutes long after July 2010.

REQUEST NO. 25: Admit that the federal Fair Labor Standards Act and its interpretive regulations require you to pay your hourly employees for any break that is less than 30 minutes long absent special circumstances.

RESPONSE: Defendant objects to this request on the grounds that it calls for a legal conclusion. Defendant further objects to this request on the grounds that it seeks information related to employees outside the state of Oregon and is therefore not reasonably calculated to lead to the discovery of admissible evidence, as Plaintiffs' meal period claims are state-specific.

REQUEST NO. 37: Admit that you did not pass any \$2 shoe rebate on to the employee who purchased that pair of shoes.

RESPONSE: Deny.

REQUEST NO. 38: Admit that you were the ultimate recipient of \$2 of the money withheld from every employee's wages who purchased their shoes through payroll deduction.

RESPONSE: Deny.

REQUEST NO. 39: Admit that for every calendar year since 2003, you were prohibited from withholding or deducting from your employees' wages any more than half of the operative Oregon Workers' Benefit Fund assessment rate established by the State of Oregon.

RESPONSE: Admit.

REQUEST NO. 40: Admit that in calendar year 2004, the Oregon Workers' Benefit Fund assessment rate established by the State of Oregon was 3.4 cents per hour worked.

RESPONSE: Admit.

REQUEST NO. 41: Admit that in calendar year 2003, the State of Oregon published notice in print and on the web that the Oregon Workers' Benefit Fund assessment rate for calendar year 2004 would be 3.4 cents per hour worked.

RESPONSE: Defendant is without knowledge sufficient to admit or deny this request.

REQUEST NO. 42: Admit that in calendar year 2003, the State of Oregon mailed a notice to you at the address you had registered with the Oregon Secretary of State that the Oregon Workers' Benefit Fund assessment rate for calendar year 2004 would be 3.4 cents per hour worked.

RESPONSE: Defendant is without knowledge sufficient to admit or deny this request.

REQUEST NO. 43: Admit that in calendar year 2003, you received notice from the State of Oregon that the Oregon Workers' Benefit Fund assessment rate for calendar year 2004 would be 3.4 cents per hour worked.

RESPONSE: Defendant admits that it received notice of the assessment rate through the "Otter" system.

REQUEST NO. 44: Admit that in calendar year 2004, you remitted no more than 3.4 cents per hour worked to the State of Oregon for the Oregon Workers' Benefit Fund assessment.

RESPONSE: Admit.

REQUEST NO. 45: Admit that in calendar year 2004, you paid no more than 1.6 cents per hour worked to the State of Oregon for the employer portion of the Oregon Workers' Benefit Fund assessment.

RESPONSE: Admit.

REQUEST NO. 46: Admit that in calendar year 2004, you were prohibited by law from withholding or deducting any more than 1.7 cents per hour worked from your Oregon employees' paychecks for the Oregon Workers' Benefit Fund assessment.

RESPONSE: Admit.

REQUEST NO. 47: Admit that you withheld or deducted 1.8 cents per hour worked from every paycheck of every Oregon employee for the Oregon Workers' Benefit Fund assessment during calendar year 2004.

RESPONSE: Admit.

REQUEST NO. 48: Admit that you were not required by law to withhold or deduct more than 1.7 cents per hour worked from any paycheck of any Oregon employee for the Oregon Workers' Benefit Fund assessment during calendar year 2004.

RESPONSE: Admit.

REQUEST NO. 49: Admit that no Oregon employee authorized you in writing to withhold or deduct more than 1.7 cents per hour worked for the Oregon Workers' Benefit Fund assessment during calendar year 2004.

RESPONSE: Admit.

REQUEST NO. 50: Admit that your withholding or deduction of more than 1.7 cents per hour worked from Oregon employees' wages for the Oregon Workers' Benefit Fund assessment during calendar year 2004 was not for those employees' benefit.

RESPONSE: Admit.

REQUEST NO. 51: Admit that you were the ultimate recipient of the overwithholding/overdeduction from every paycheck of every Oregon employee for the Oregon Workers' Benefit Fund assessment during calendar year 2004.

RESPONSE: Deny.

REQUEST NO. 52: Admit that no Oregon employee voluntarily signed an authorization for you to withhold or deduct more than 1.7 cents per hour worked from any paycheck for the Oregon Workers' Benefit Fund assessment during calendar year 2004.

RESPONSE: Admit.

REQUEST NO. 53: Admit that in calendar year 2005, the Oregon Workers' Benefit Fund assessment rate established by the State of Oregon was 3.4 cents per hour worked.

RESPONSE: Admit.

REQUEST NO. 54: Admit that in calendar year 2004, the State of Oregon published notice in print and on the web that the Oregon Workers' Benefit Fund assessment rate for calendar year 2005 would be 3.4 cents per hour worked.

RESPONSE: Defendant is without knowledge sufficient to admit or deny this request.

REQUEST NO. 55: Admit that in calendar year 2004, the State of Oregon mailed a notice to you at the address you had registered with the Oregon Secretary of State that the

Oregon Workers' Benefit Fund assessment rate for calendar year 2005 would be 3.4 cents per hour worked.

RESPONSE: Defendant is without knowledge sufficient to admit or deny this request.

REQUEST NO. 56: Admit that in calendar year 2004, you received notice from the State of Oregon that the Oregon Workers' Benefit Fund assessment rate for calendar year 2005 would be 3.4 cents per hour worked.

RESPONSE: Defendant admits that it received notice of the assessment rate through the "Otter" system.

REQUEST NO. 57: Admit that in calendar year 2005, you remitted no more than 3.4 cents per hour worked to the State of Oregon for the Oregon Workers' Benefit Fund assessment.

RESPONSE: Admit.

REQUEST NO. 58: Admit that in calendar year 2005, you paid no more than 1.6 cents per hour worked to the State of Oregon for the employer portion of the Oregon Workers' Benefit Fund assessment.

RESPONSE: Admit.

REQUEST NO. 59: Admit that in calendar year 2005, you were prohibited by law from withholding or deducting any more than 1.7 cents per hour worked from your Oregon employees' paychecks for the Oregon Workers' Benefit Fund assessment.

RESPONSE: Admit.

REQUEST NO. 60: Admit that you withheld or deducted 1.8 cents per hour worked from every paycheck of every Oregon employee for the Oregon Workers' Benefit Fund assessment during calendar year 2005.

RESPONSE: Admit.

REQUEST NO. 61: Admit that you were not required by law to withhold or deduct more than 1.7 cents per hour worked from any paycheck of any Oregon employee for the Oregon Workers' Benefit Fund assessment during calendar year 2005.

RESPONSE: Admit.

REQUEST NO. 62: Admit that no Oregon employee authorized you in writing to withhold or deduct more than 1.7 cents per hour worked for the Oregon Workers' Benefit Fund assessment during calendar year 2005.

RESPONSE: Admit.

REQUEST NO. 63: Admit that your withholding or deduction of more than 1.7 cents per hour worked from Oregon employees' wages for the Oregon Workers' Benefit Fund assessment during calendar year 2005 was not for those employees' benefit.

RESPONSE: Admit.

REQUEST NO. 64: Admit that you were the ultimate recipient of the overwithholding/overdeduction from every paycheck of every Oregon employee for the Oregon Workers' Benefit Fund assessment during calendar year 2005.

RESPONSE: Deny.

REQUEST NO. 65: Admit that no Oregon employee voluntarily signed an authorization for you to withhold or deduct more than 1.7 cents per hour worked from any paycheck for the Oregon Workers' Benefit Fund assessment during calendar year 2005.

RESPONSE: Admit.

REQUEST NO. 66: Admit that in calendar year 2006, the Oregon Workers' Benefit Fund assessment rate established by the State of Oregon was 3.0 cents per hour worked.

RESPONSE: Admit.

REQUEST NO. 67: Admit that in calendar year 2005, the State of Oregon published notice in print and on the web that the Oregon Workers' Benefit Fund assessment rate for calendar year 2006 would be 3.0 cents per hour worked.

RESPONSE: Defendant is without knowledge sufficient to admit or deny this request.

REQUEST NO. 68: Admit that in calendar year 2005, the State of Oregon mailed a notice to you at the address you had registered with the Oregon Secretary of State that the Oregon Workers' Benefit Fund assessment rate for calendar year 2006 would be 3.0 cents per hour worked.

RESPONSE: Defendant is without knowledge sufficient to admit or deny this request.

REQUEST NO. 69: Admit that in calendar year 2005, you received notice from the State of Oregon that the Oregon Workers' Benefit Fund assessment rate for calendar year 2006 would be 3.0 cents per hour worked.

RESPONSE: Defendant admits that it received notice of the assessment rate through the "Otter" system.

REQUEST NO. 70: Admit that in calendar year 2006, you remitted no more than 3.0 cents per hour worked to the State of Oregon for the Oregon Workers' Benefit Fund assessment.

RESPONSE: Admit.

REQUEST NO. 71: Admit that in calendar year 2006, you paid no more than 1.2 cents per hour worked to the State of Oregon for the employer portion of the Oregon Workers' Benefit Fund assessment.

RESPONSE: Admit.

REQUEST NO. 72: Admit that in calendar year 2006, you were prohibited by law from withholding or deducting any more than 1.5 cents per hour worked from your Oregon employees' paychecks for the Oregon Workers' Benefit Fund assessment.

RESPONSE: Admit.

REQUEST NO. 73: Admit that you withheld or deducted 1.8 cents per hour worked from every paycheck of every Oregon employee for the Oregon Workers' Benefit Fund assessment during calendar year 2006.

RESPONSE: Admit.

REQUEST NO. 74: Admit that you were not required by law to withhold or deduct more than 1.5 cents per hour worked from any paycheck of any Oregon employee for the Oregon Workers' Benefit Fund assessment during calendar year 2006.

RESPONSE: Admit.

REQUEST NO. 75: Admit that no Oregon employee authorized you in writing to withhold or deduct more than 1.5 cents per hour worked for the Oregon Workers' Benefit Fund assessment during calendar year 2006.

RESPONSE: Admit.

REQUEST NO. 76: Admit that your withholding or deduction of more than 1.5 cents per hour worked from Oregon employees' wages for the Oregon Workers' Benefit Fund assessment during calendar year 2006 was not for those employees' benefit.

RESPONSE: Admit.

REQUEST NO. 77: Admit that you were the ultimate recipient of the overwithholding/overdeduction from every paycheck of every Oregon employee for the Oregon Workers' Benefit Fund assessment during calendar year 2006.

RESPONSE: Deny.

REQUEST NO. 78: Admit that no Oregon employee voluntarily signed an authorization for you to withhold or deduct more than 1.5 cents per hour worked from any paycheck for the Oregon Workers' Benefit Fund assessment during calendar year 2006.

RESPONSE: Admit.

REQUEST NO. 79: Admit that in calendar year 2007, the Oregon Workers' Benefit Fund assessment rate established by the State of Oregon was 2.8 cents per hour worked.

RESPONSE: Admit.

REQUEST NO. 80: Admit that in calendar year 2006, the State of Oregon published notice in print and on the web that the Oregon Workers' Benefit Fund assessment rate for calendar year 2007 would be 2.8 cents per hour worked.

RESPONSE: Defendant is without knowledge sufficient to admit or deny this request.

REQUEST NO. 81: Admit that in calendar year 2006, the State of Oregon mailed a notice to you at the address you had registered with the Oregon Secretary of State that the Oregon Workers' Benefit Fund assessment rate for calendar year 2007 would be 2.8 cents per hour worked.

RESPONSE: Defendant is without knowledge sufficient to admit or deny this request.

REQUEST NO. 82: Admit that in calendar year 2006, you received notice from the State of Oregon that the Oregon Workers' Benefit Fund assessment rate for calendar year 2007 would be 2.8 cents per hour worked.

RESPONSE: Defendant admits that it received notice of the assessment rate through the "Otter" system.

REQUEST NO. 83: Admit that in calendar year 2007, you remitted no more than 2.8 cents per hour worked to the State of Oregon for the Oregon Workers' Benefit Fund assessment.

RESPONSE: Admit.

REQUEST NO. 84: Admit that in calendar year 2007, you paid no more than 1.0 cents per hour worked to the State of Oregon for the employer portion of the Oregon Workers' Benefit Fund assessment.

RESPONSE: Admit.

REQUEST NO. 85: Admit that in calendar year 2007, you were prohibited by law from withholding or deducting any more than 1.4 cents per hour worked from your Oregon employees' paychecks for the Oregon Workers' Benefit Fund assessment.

RESPONSE: Admit.

REQUEST NO. 86: Admit that you withheld or deducted 1.8 cents per hour worked from every paycheck of every Oregon employee for the Oregon Workers' Benefit Fund assessment during calendar year 2007.

RESPONSE: Admit.

REQUEST NO. 87: Admit that you were not required by law to withhold or deduct more than 1.4 cents per hour worked from any paycheck of any Oregon employee for the Oregon Workers' Benefit Fund assessment during calendar year 2007.

RESPONSE: Admit.

REQUEST NO. 88: Admit that no Oregon employee authorized you in writing to withhold or deduct more than 1.4 cents per hour worked for the Oregon Workers' Benefit Fund assessment during calendar year 2007.

RESPONSE: Admit.

REQUEST NO. 89: Admit that your withholding or deduction of more than 1.4 cents per hour worked from Oregon employees' wages for the Oregon Workers' Benefit Fund assessment during calendar year 2007 was not for those employees' benefit.

RESPONSE: Admit.

REQUEST NO. 90: Admit that you were the ultimate recipient of the overwithholding/overdeduction from every paycheck of every Oregon employee for the Oregon Workers' Benefit Fund assessment during calendar year 2007.

RESPONSE: Deny.

REQUEST NO. 91: Admit that no Oregon employee voluntarily signed an authorization for you to withhold or deduct more than 1.4 cents per hour worked from any paycheck for the Oregon Workers' Benefit Fund assessment during calendar year 2007.

RESPONSE: Admit.

REQUEST NO. 92: Admit that in calendar year 2008, the Oregon Workers' Benefit Fund assessment rate established by the State of Oregon was 2.8 cents per hour worked.

RESPONSE: Admit.

REQUEST NO. 93: Admit that in calendar year 2007, the State of Oregon published notice in print and on the web that the Oregon Workers' Benefit Fund assessment rate for calendar year 2008 would be 2.8 cents per hour worked.

RESPONSE: Defendant is without knowledge sufficient to admit or deny this request.

REQUEST NO. 94: Admit that in calendar year 2007, the State of Oregon mailed a notice to you at the address you had registered with the Oregon Secretary of State that the Oregon Workers' Benefit Fund assessment rate for calendar year 2008 would be 2.8 cents per hour worked.

RESPONSE: Defendant is without knowledge sufficient to admit or deny this request.

REQUEST NO. 95: Admit that in calendar year 2007, you received notice from the State of Oregon that the Oregon Workers' Benefit Fund assessment rate for calendar year 2008 would be 2.8 cents per hour worked.

RESPONSE: Defendant admits that it received notice of the assessment rate through the “Otter” system.

REQUEST NO. 96: Admit that in calendar year 2008, you remitted no more than 2.8 cents per hour worked to the State of Oregon for the Oregon Workers’ Benefit Fund assessment.

RESPONSE: Admit.

REQUEST NO. 97: Admit that in calendar year 2008, you paid no more than 1.0 cents per hour worked to the State of Oregon for the employer portion of the Oregon Workers’ Benefit Fund assessment.

RESPONSE: Admit.

REQUEST NO. 98: Admit that in calendar year 2008, you were prohibited by law from withholding or deducting any more than 1.4 cents per hour worked from your Oregon employees’ paychecks for the Oregon Workers’ Benefit Fund assessment.

RESPONSE: Admit.

REQUEST NO. 99: Admit that you withheld or deducted 1.8 cents per hour worked from every paycheck of every Oregon employee for the Oregon Workers’ Benefit Fund assessment during calendar year 2008.

RESPONSE: Admit.

REQUEST NO. 100: Admit that you were not required by law to withhold or deduct more than 1.4 cents per hour worked from any paycheck of any Oregon employee for the Oregon Workers' Benefit Fund assessment during calendar year 2008.

RESPONSE: Admit.

REQUEST NO. 101: Admit that no Oregon employee authorized you in writing to withhold or deduct more than 1.4 cents per hour worked for the Oregon Workers' Benefit Fund assessment during calendar year 2008.

RESPONSE: Admit.

REQUEST NO. 102: Admit that your withholding or deduction of more than 1.4 cents per hour worked from Oregon employees' wages for the Oregon Workers' Benefit Fund assessment during calendar year 2008 was not for those employees' benefit.

RESPONSE: Deny.

REQUEST NO. 103: Admit that you were the ultimate recipient of the overwithholding/overdeduction from every paycheck of every Oregon employee for the Oregon Workers' Benefit Fund assessment during calendar year 2008.

RESPONSE: Deny.

REQUEST NO. 104: Admit that no Oregon employee voluntarily signed an authorization for you to withhold or deduct more than 1.4 cents per hour worked from any paycheck for the Oregon Workers' Benefit Fund assessment during calendar year 2008.

RESPONSE: Admit.

REQUEST NO. 105: Admit that in calendar year 2009, the Oregon Workers' Benefit Fund assessment rate established by the State of Oregon was 2.8 cents per hour worked.

RESPONSE: Admit.

REQUEST NO. 106: Admit that in calendar year 2008, the State of Oregon published notice in print and on the web that the Oregon Workers' Benefit Fund assessment rate for calendar year 2009 would be 2.8 cents per hour worked.

RESPONSE: Defendant is without knowledge sufficient to admit or deny this request.

REQUEST NO. 107: Admit that in calendar year 2008, the State of Oregon mailed a notice to you at the address you had registered with the Oregon Secretary of State that the Oregon Workers' Benefit Fund assessment rate for calendar year 2009 would be 2.8 cents per hour worked.

RESPONSE: Defendant is without knowledge sufficient to admit or deny this request.

REQUEST NO. 108: Admit that in calendar year 2008, you received notice from the State of Oregon that the Oregon Workers' Benefit Fund assessment rate for calendar year 2009 would be 2.8 cents per hour worked.

RESPONSE: Defendant admits that it received notice of the assessment rate through the "Otter" system.

REQUEST NO. 109: Admit that in calendar year 2009, you remitted no more than 2.8 cents per hour worked to the State of Oregon for the Oregon Workers' Benefit Fund assessment.

RESPONSE: Admit.

REQUEST NO. 110: Admit that in calendar year 2009, you paid no more than 1.0 cents per hour worked to the State of Oregon for the employer portion of the Oregon Workers' Benefit Fund assessment.

RESPONSE: Admit.

REQUEST NO. 111: Admit that in calendar year 2009, you were prohibited by law from withholding or deducting any more than 1.4 cents per hour worked from your Oregon employees' paychecks for the Oregon Workers' Benefit Fund assessment.

RESPONSE: Admit.

REQUEST NO. 112: Admit that you withheld or deducted 1.8 cents per hour worked from every paycheck of every Oregon employee for the Oregon Workers' Benefit Fund assessment during calendar year 2009.

RESPONSE: Admit.

REQUEST NO. 113: Admit that you were not required by law to withhold or deduct more than 1.4 cents per hour worked from any paycheck of any Oregon employee for the Oregon Workers' Benefit Fund assessment during calendar year 2009.

RESPONSE: Admit.

REQUEST NO. 114: Admit that no Oregon employee authorized you in writing to withhold or deduct more than 1.4 cents per hour worked for the Oregon Workers' Benefit Fund assessment during calendar year 2009.

RESPONSE: Admit.

REQUEST NO. 115: Admit that your withholding or deduction of more than 1.4 cents per hour worked from Oregon employees' wages for the Oregon Workers' Benefit Fund assessment during calendar year 2009 was not for those employees' benefit.

RESPONSE: Deny.

REQUEST NO. 116: Admit that you were the ultimate recipient of the overwithholding/overdeduction from every paycheck of every Oregon employee for the Oregon Workers' Benefit Fund assessment during calendar year 2009.

RESPONSE: Deny.

REQUEST NO. 117: Admit that no Oregon employee voluntarily signed an authorization for you to withhold or deduct more than 1.4 cents per hour worked from any paycheck for the Oregon Workers' Benefit Fund assessment during calendar year 2009.

RESPONSE: Admit.

REQUEST NO. 118: Admit that in calendar year 2010, the Oregon Workers' Benefit Fund assessment rate established by the State of Oregon was 2.8 cents per hour worked.

RESPONSE: Admit.

REQUEST NO. 119: Admit that in calendar year 2009, the State of Oregon published notice in print and on the web that the Oregon Workers' Benefit Fund assessment rate for calendar year 2010 would be 2.8 cents per hour worked.

RESPONSE: Defendant is without knowledge sufficient to admit or deny this request.

REQUEST NO. 120: Admit that in calendar year 2009, the State of Oregon mailed a notice to you at the address you had registered with the Oregon Secretary of State that the Oregon Workers' Benefit Fund assessment rate for calendar year 2010 would be 2.8 cents per hour worked.

RESPONSE: Defendant is without knowledge sufficient to admit or deny this request.

REQUEST NO. 121: Admit that in calendar year 2009, you received notice from the State of Oregon that the Oregon Workers' Benefit Fund assessment rate for calendar year 2010 would be 2.8 cents per hour worked.

RESPONSE: Defendant admits that it received notice of the assessment rate through the "Otter" system.

REQUEST NO. 122: Admit that in calendar year 2010, you remitted no more than 2.8 cents per hour worked to the State of Oregon for the Oregon Workers' Benefit Fund assessment.

RESPONSE: Admit.

REQUEST NO. 123: Admit that in calendar year 2010, you paid no more than 1.0 cents per hour worked to the State of Oregon for the employer portion of the Oregon Workers' Benefit Fund assessment.

RESPONSE: Admit.

REQUEST NO. 124: Admit that in calendar year 2010, you were prohibited by law from withholding or deducting any more than 1.4 cents per hour worked from your Oregon employees' paychecks for the Oregon Workers' Benefit Fund assessment.

RESPONSE: Admit.

REQUEST NO. 125: Admit that you withheld or deducted 1.8 cents per hour worked from every paycheck of every Oregon employee for the Oregon Workers' Benefit Fund assessment during calendar year 2010.

RESPONSE: Admit.

REQUEST NO. 126: Admit that you were not required by law to withhold or deduct more than 1.4 cents per hour worked from any paycheck of any Oregon employee for the Oregon Workers' Benefit Fund assessment during calendar year 2010.

RESPONSE: Admit.

REQUEST NO. 127: Admit that no Oregon employee authorized you in writing to withhold or deduct more than 1.4 cents per hour worked for the Oregon Workers' Benefit Fund assessment during calendar year 2010.

RESPONSE: Admit.

REQUEST NO. 128: Admit that your withholding or deduction of more than 1.4 cents per hour worked from Oregon employees' wages for the Oregon Workers' Benefit Fund assessment during calendar year 2010 was not for those employees' benefit.

RESPONSE: Deny.

REQUEST NO. 129: Admit that you were the ultimate recipient of the overwithholding/overdeduction from every paycheck of every Oregon employee for the Oregon Workers' Benefit Fund assessment during calendar year 2010.

RESPONSE: Deny.

REQUEST NO. 130: Admit that no Oregon employee voluntarily signed an authorization for you to withhold or deduct more than 1.4 cents per hour worked from any paycheck for the Oregon Workers' Benefit Fund assessment during calendar year 2010.

RESPONSE: Admit.

REQUEST NO. 131: Admit that in calendar year 2011, the Oregon Workers' Benefit Fund assessment rate established by the State of Oregon was 2.8 cents per hour worked.

RESPONSE: Admit.

REQUEST NO. 132: Admit that in calendar year 2010, the State of Oregon published notice in print and on the web that the Oregon Workers' Benefit Fund assessment rate for calendar year 2011 would be 2.8 cents per hour worked.

RESPONSE: Defendant is without knowledge sufficient to admit or deny this request.

REQUEST NO. 133: Admit that in calendar year 2010, the State of Oregon mailed a notice to you at the address you had registered with the Oregon Secretary of State that the Oregon Workers' Benefit Fund assessment rate for calendar year 2011 would be 2.8 cents per hour worked.

RESPONSE: Defendant is without knowledge sufficient to admit or deny this request.

REQUEST NO. 134: Admit that in calendar year 2010, you received notice from the State of Oregon that the Oregon Workers' Benefit Fund assessment rate for calendar year 2011 would be 2.8 cents per hour worked.

RESPONSE: Defendant admits that it received notice of the assessment rate through the "Otter" system.

REQUEST NO. 135: Admit that in calendar year 2011, you were prohibited by law from withholding or deducting any more than 1.4 cents per hour worked from your Oregon employees' paychecks for the Oregon Workers' Benefit Fund assessment.

RESPONSE: Admit.

REQUEST NO. 136: Admit that in calendar year 2011, you remitted no more than 2.8 cents per hour worked to the State of Oregon for the Oregon Workers' Benefit Fund assessment.

RESPONSE: Admit.

REQUEST NO. 137: Admit that in calendar year 2011, you paid no more than 1.0 cents per hour worked to the State of Oregon for the employer portion of the Oregon Workers' Benefit Fund assessment.

RESPONSE: Admit.

REQUEST NO. 138: Admit that you withheld or deducted 1.8 cents per hour worked from every paycheck of every Oregon employee for the Oregon Workers' Benefit Fund assessment during calendar year 2011.

RESPONSE 1: Admit.

REQUEST NO. 139: Admit that you were not required by law to withhold or deduct more than 1.4 cents per hour worked from any paycheck of any Oregon employee for the Oregon Workers' Benefit Fund assessment during calendar year 2011.

RESPONSE 2 : Admit.

REQUEST NO. 140: Admit that no Oregon employee authorized you in writing to withhold or deduct more than 1.4 cents per hour worked for the Oregon Workers' Benefit Fund assessment during calendar year 2011.

RESPONSE: Admit.

REQUEST NO. 141: Admit that your withholding or deduction of more than 1.4 cents per hour worked from Oregon employees' wages for the Oregon Workers' Benefit Fund assessment during calendar year 2011 was not for those employees' benefit.

RESPONSE: Deny.

REQUEST NO. 142: Admit that you were the ultimate recipient of the overwithholding/overdeduction from every paycheck of every Oregon employee for the Oregon Workers' Benefit Fund assessment during calendar year 2011.

RESPONSE: Deny.

REQUEST NO. 143: Admit that no Oregon employee voluntarily signed an authorization for you to withhold or deduct more than 1.4 cents per hour worked from any paycheck for the Oregon Workers' Benefit Fund assessment during calendar year 2011.

RESPONSE: Admit.

REQUEST NO. 144: Admit that during calendar year 2012, the Oregon Workers' Benefit Fund assessment rate established by the State of Oregon has been 2.8 cents per hour worked.

RESPONSE: Admit.

REQUEST NO. 145: Admit that in calendar year 2011, the State of Oregon published notice in print and on the web that the Oregon Workers' Benefit Fund assessment rate for calendar year 2012 would be 2.8 cents per hour worked.

RESPONSE: Defendant is without knowledge sufficient to admit or deny this request.

REQUEST NO. 146: Admit that in calendar year 2011, the State of Oregon mailed a notice to you at the address you had registered with the Oregon Secretary of State that the Oregon Workers' Benefit Fund assessment rate for calendar year 2012 would be 2.8 cents per hour worked.

RESPONSE: Defendant is without knowledge sufficient to admit or deny this request.

REQUEST NO. 147: Admit that in calendar year 2011, you received notice from the State of Oregon that the Oregon Workers' Benefit Fund assessment rate for calendar year 2012 would be 2.8 cents per hour worked.

RESPONSE: Defendant admits that it received notice of the assessment rate through the "Otter" system.

REQUEST NO. 148: Admit that in calendar year 2012, you have been prohibited by law from withholding or deducting any more than 1.4 cents per hour worked from your Oregon employees' paychecks for the Oregon Workers' Benefit Fund assessment.

RESPONSE: Admit.

REQUEST NO. 149: Admit that you withheld or deducted 1.8 cents per hour worked from every paycheck of every Oregon employee for the Oregon Workers' Benefit Fund assessment during at least one pay period in calendar year 2012.

RESPONSE: Admit.

REQUEST NO. 150: Admit that you were not required by law to withhold or deduct more than 1.4 cents per hour worked from any paycheck of any Oregon employee for the Oregon Workers' Benefit Fund assessment during calendar year 2012.

RESPONSE: Admit.

REQUEST NO. 151: Admit that no Oregon employee authorized you in writing to withhold or deduct more than 1.4 cents per hour worked for the Oregon Workers' Benefit Fund assessment during calendar year 2012.

RESPONSE: Admit.

REQUEST NO. 152: Admit that your withholding or deduction of more than 1.4 cents per hour worked from Oregon employees' wages for the Oregon Workers' Benefit Fund assessment during at least one pay period in calendar year 2012 was not for those employees' benefit.

RESPONSE: Deny.

REQUEST NO. 153: Admit that you were the ultimate recipient of the overwithholding/overdeduction from every paycheck of every Oregon employee for the Oregon Workers' Benefit Fund assessment during at least one pay period in calendar year 2012.

RESPONSE: Deny.

REQUEST NO. 154: Admit that no Oregon employee voluntarily signed an authorization for you to withhold or deduct more than 1.4 cents per hour worked from any paycheck for the Oregon Workers' Benefit Fund assessment during calendar year 2012.

RESPONSE: Admit.

REQUEST NO. 155: Admit that you withheld or deducted Workers' Benefit Fund assessments from more than 50 Oregon employees on or after August 13, 2004.

RESPONSE: Admit.


REQUEST NO. 156: Admit that you withheld or deducted Workers' Benefit Fund assessments from more than 100 Oregon employees on or after August 13, 2004.

RESPONSE: Admit.

REQUEST NO. 157: Admit that you withheld or deducted Workers' Benefit Fund assessments from more than 500 Oregon employees on or after August 13, 2004.

RESPONSE: Admit.

Dated: March 28, 2012



Douglas S. Parker, OSB No. 821017
Jennifer A. Nelson, OSB No. 034086
Don H. Stait, OSB No. 105134
Littler Mendelson, P.C.

Attorneys for Defendant
JACK IN THE BOX INC., a Corporation of
Delaware

Firmwide:109554843.1 063201.1002

CERTIFICATE OF SERVICE

I hereby certify that on March 28, 2012, I served a full, true, and correct copy of the foregoing DEFENDANT'S RESPONSES TO PLAINTIFFS' REQUESTS FOR ADMISSION:

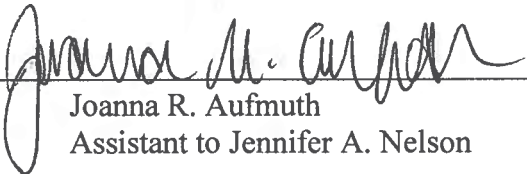
- ☒ By delivery via messenger, or otherwise by hand,
☐ By facsimile,
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By:


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**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON**

JESSICA GESSELE, ASHLEY GESSELE,
NICOLE GESSELE, TRICIA TETRAULT,
and CHRISTINA LUCHAU on behalf
of themselves and all others
similarly situated,

Plaintiffs,

Vs.

Civil No.:
3:10-cv-960-ST

JACK IN THE BOX INC., a
corporation of Delaware,

Defendant.



**VIDEOTAPED DEPOSITION OF PAUL BARNARD
TAKEN ON BEHALF OF THE PLAINTIFFS
TUESDAY, FEBRUARY 14, 2012**

1 Q. Okay.

2 A. And someone supplied the hours to me.

3 Q. And someone supplied the rate to you as
4 well?

5 A. No. The state does that.

6 Q. Oh, okay.

7 A. Because if you work with OTTER, that's --
8 remember, that field I can't change.

9 Q. Right.

10 A. So each year, the state would send us to
11 OTTER, our OTTER copy, the rate -- the percentages
12 that -- I can't change the UI rate. I can't change
13 any of this stuff.

14 Q. I just -- and I apologize.

15 A. That's okay.

16 Q. Perhaps my question was wrong.

17 A. That's okay.

18 Q. I just meant I think I remember you saying
19 that you checked the rate that was on the form to
20 see if it matched the rate that was in Lawson?

21 A. No, I never said that.

22 Q. No? Oh, okay. Did anyone do that? Do
23 you know?

24 A. I don't know anything about workers' comp.

25 Q. Okay.

1 CERTIFICATE OF VIDEOGRAPHER
2

3 I the undersigned, Jamie Carlson, am a videographer
4 behalf of the NAEGELI REPORTING CORPORATION. I do hereby
5 certify that I have accurately made the video recording of
6 the deposition of Paul Barnard, in the above captioned
7 matter on the 14th day of February, 2012, taken at the
8 location of 9330 Balboa Avenue, Corporate Headquarters,
9 Diego, CA 92123, consisting of 1 DVD(s).

10
11 No alterations, additions or deletions were made
12 thereto.

13
14 I further certify that I am not related to any of the
15 parties in the action and have no financial interest in
16 outcome of this matter.

17
18
19 Jamie Carlson

20 Videographer

21
22
23 2/14/2012

24 Date
25

1 STATE OF CALIFORNIA

2 COUNTY OF SAN DIEGO

3
4 I, Lynette Marie Nelson, Certified Shorthand Reporter, in
5 and for the State of California, Certificate No. 11585, do
6 hereby certify:

7
8 That the witness in the foregoing deposition was by me
9 duly sworn to testify to the truth, the whole truth, and
10 nothing but the truth in the foregoing cause; that the
11 deposition was then reported by me in shorthand and
12 transcribed, through computer-aided transcription, under
13 direction; and that the above and foregoing transcript, is
14 true record of the testimony elicited and proceedings
15 said deposition.

16
17 I do further certify that I am a disinterested person
18 in no way interested in the outcome of this action or
19 connection with or related to any of the parties in this
20 action or to their respective counsel.

21
22 In witness whereof, I have hereunto set my hand this 23rd
23 day of February, 2012.

24 /S/

25 Lynette Marie Nelson, CSR No. 11585

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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

JESSICA GESSELE, ASHLEY GESSELE,
NICOLE GESSELE, TRICIA TETRAULT,
and CHRISTINA LUCHAU on behalf
of themselves and all others
similarly situated,

Plaintiffs,

Vs.

Civil No.:
3:10-cv-960-ST

JACK IN THE BOX INC., a
corporation of Delaware,

Defendant.



VIDEOTAPE DEPOSITION OF SYLVIA DE CHANDT
TAKEN ON BEHALF OF THE PLAINTIFFS
THURSDAY, FEBRUARY 9, 2012

1 Q. What was his title?

2 A. He was payroll analyst.

3 Q. Do you know how long he was in that
4 position?

5 A. I'm sorry, I don't recall the full length.
6 It was well over 10 years, though.

7 Q. Okay. Were you still at the company when
8 he left that position?

9 A. No. I left before he left.

10 Q. All right. So how did Mr. Bernard, or who
11 -- whoever helped him in that, or -- or you
12 overseeing, how did the payroll department figure
13 out what the various different taxes were that they
14 had to take out of everyone's paychecks in the
15 different jurisdictions?

16 A. Okay. Are you talking about withholding?

17 Q. What's -- what's the difference? What do
18 you mean?

19 A. Well, there's employer taxes as well --

20 Q. Okay.

21 A. -- as you probably know. So I need to
22 know which --

23 Q. Sure. Well --

24 A. -- tax you're talking about.

25 Q. Yeah. We'll -- we'll split it up. For --

1 for now, let's just talk about the taxes that are
2 taken out of employee paychecks.

3 A. Okay. So the withholding, we worked with
4 the Talx Corporation for some of it. But mainly for
5 the 2000s it was with BSI. That was -- that is the
6 tax engine that is attached to the Lawson payroll
7 system.

8 Q. And would that be a different answer for
9 the employer paid taxes?

10 A. For the FUI and SUI, that would be
11 different because those are -- were negotiated with
12 the state with the Talx Corporation, depending upon
13 -- well, when I say "negotiate," that's probably the
14 wrong word -- depending upon our experience rating.

15 Q. Okay. The state taxing authorities don't
16 tend to do too much negotiating.

17 A. Right.

18 Q. They just tell you what you're supposed to
19 pay.

20 A. Right.

21 Q. And are you familiar, or do you remember
22 anything about Oregon's worker benefit fund tax? I
23 -- I can't figure out which of the categories that
24 would fall into.

25 A. That is a whole different issue since it's

1 Q. Okay. And then so whether the updated
2 rate came from the State of Oregon or from risk
3 management or directly from the Workers' Comp
4 carrier, who would be the person who would update
5 those rates in the Lawson program?

6 A. It was either myself, Paul, or Beth
7 Lipold.

8 Q. This is Paul Bernard?

9 A. Yes.

10 Q. Is that L-I-P-O-L-D for Beth's name?

11 A. Yes.

12 Q. Okay. So once the tax rate was inputted
13 into Lawson, did Lawson do the multiplying and --
14 and figuring out of how much should be deducted from
15 people's checks?

16 A. Yes.

17 Q. And is -- is that rate just inputted once
18 into a master place, or does it have to be put into
19 every employee's record?

20 A. It is put in once in a deduction table
21 because every deduction has a code, and then that
22 table is updated to all the employees individually.
23 There's a program that's run to update all of the
24 deductions.

25 Q. And does that update everyone in the same

1 know, the exact process that Paul --

2 Q. Right.

3 A. -- did.

4 Q. Okay. Is -- is that -- is there some
5 generally acceptable or general approach to auditing
6 numbers that -- is that -- how would that come about
7 in general? Is there -- are you comparing two
8 different things to each other, or what would be the
9 process of that?

10 A. Again, I don't think I should answer that
11 because I don't recall the exact steps that Paul
12 took.

13 Q. Okay. And again, I can only ask you what
14 you know.

15 A. Right.

16 Q. And so that's all I'm asking.

17 Was there a name for the process, or a
18 button that you would push, or some other way to
19 identify what happens when you input the rate, let's
20 say for Oregon workers benefit fund, and then that
21 somehow gets populated to all of the employees in
22 that area, and is there some name for how that
23 happens or...

24 A. There's a program that's run on Lawson,
25 and it's Employee Deduction Update.

1 Q. Okay. It's called Employee Deduction

2 Update?

3 A. Yes. It's a job.

4 Q. So if that's -- if that's been done, can
5 you -- if everybody in Oregon is supposed to have
6 the same rate, can you work backwards? Can you just
7 pick up one person's pay stub and say, okay, if
8 that's the rate on this pay stub, it must be the
9 rate for everyone in the state?

10 A. You can.

11 Q. Okay.

12 A. Depending upon, again, the work comp class

13 --

14 Q. Right.

15 A. -- of the individual at that given point
16 in time.

17 Q. Okay. Is it your understanding that all
18 of the crew members, just the regular crew member
19 classification, were the same Workers' Comp class in
20 the state?

21 A. Yes.

22 Q. And how about the -- the team leaders?

23 Are they in the same work comp class?

24 A. Yes.

25 Q. So basically, all of the nonexempt hourly

1 employees; is that what -- is that what you mean by
2 the Workers' Comp class? Are they all in the same
3 one?

4 A. Yes.

5 Q. All right. So they would all have the
6 same workers benefit fund rate?

7 A. Yes.

8 Q. Okay. If you wanted to go back after the
9 fact and check to see if the proper rate was
10 withheld during any period of time, how would you go
11 about that, given your knowledge of the computer
12 systems that I don't have? What would you check to
13 see if that was done correctly?

14 A. I would first have to see the person, what
15 position they held, that would be my first thing, at
16 the time that they received payment, and then check
17 with our historical documentation on what the rate
18 should have been at that time.

19 Q. Okay. And what would that historical
20 documentation be?

21 A. The form that came in from the state
22 and/or the insurance carrier.

23 Q. And you said that those were kept by --
24 would those be Arlette that kept that -- the -- that
25 paperwork?

1 A. Biweekly, or whenever we would need it.
2 You know, if we were going to franchise a restaurant
3 or, you know, what -- whatever we needed for payment
4 given the circumstance.

5 Q. Right. In -- in the typical situation
6 that wasn't a franchise or a termination or
7 something where you needed it in the middle, was the
8 typical transfer period for everybody for those
9 biweekly pay periods?

10 A. Correct.

11 Q. And so now shifting gears to the Jack's
12 Timekeeping system. First of all, when -- when did
13 that start, or approximately?

14 A. That was such a long project. I cannot
15 remember when that started. But when I left, the
16 project was going on seven or eight years.

17 Q. Had it gone live yet?

18 A. It had gone live, but not a hundred
19 percent throughout the company restaurants.

20 Q. Okay. Was it a different software
21 provider than Kronos?

22 A. Yes, it was.

23 Q. Okay. Who -- and who was the new one?

24 A. I've forgotten --

25 Q. Okay.

1 A. -- the -- the -- the name because we then
2 subsequently purchased the whole thing and renamed
3 it "Jack's Timekeeping."

4 Q. Oh, okay. All right. Were you involved
5 in the decision to change from Kronos to the new
6 system?

7 A. Yes.

8 Q. Okay. And why was that decision made?
9 Why did they decided to switch over?

10 A. The main reason is that the punches reside
11 on a file server here in this building, and now
12 you're not at the mercy of that specific PC at every
13 single restaurant. And if there's a problem with
14 that specific PC at the restaurant, it was a real
15 hardship on trying to get that file. And many --
16 you know, it would -- then we'd have to be dealing
17 with reports that manager had, and we tried to --
18 you know, it -- that -- that was the main thing, is
19 that -- the other thing is that we could put more,
20 you know, monitors on -- on the system.

21 Q. Tell me what you mean by that.

22 A. Employees have to have their full 10-
23 minute break. We don't want them clocking in at 8
24 minutes. They must have their half-an-hour break.
25 We don't want them clocking back in at 23 minutes.

1 And they may have thought that was okay, but we
2 realized that was not okay, and we had to, you know,
3 make them take their full break.

4 Q. Okay. Was there a team that went about
5 planning and making the transition and deciding what
6 would be changed?

7 A. Oh, yeah. And -- and it was a rather
8 large team because, you know, we had to have
9 restaurant managers involved, area coaches, regional
10 staff, HR, payroll, IS.

11 Q. Was legal involved as well?

12 A. Yes.

13 Q. Okay. Do you know what the rules were
14 from Jack's Timekeeping in terms of how long a break
15 had to be before it was paid or unpaid?

16 A. I do not.

17 Q. Okay. If a manager needs to make a change
18 to an employee punch, say that an employee forgot to
19 punch in at the beginning of the day --

20 A. Um-hum.

21 Q. -- or something like --

22 A. Um-hum.

23 Q. -- that, under the Kronos system, after
24 the information had already been transferred to FM
25 Timekeeping (sic), would there be a way for that

1 Q. This talks about the graveyard shift,
2 which says here is between -- if they take a meal
3 break between 11:00 p.m. and 4:00 a.m., then they're
4 paid for that time; is that your understanding?

5 A. Yes.

6 Q. Okay. And it's -- other people have
7 testified that that's because they're not allowed to
8 leave the store.

9 A. Correct.

10 Q. Would it -- is that separated out in any
11 way on their pay stub as to separately paid, or is
12 it just contained in that hours-worked number?

13 A. It's contained in that hours-worked
14 number.

15 Q. Okay. If it says then -- after those
16 examples it says, "Remember that meal breaks are 24
17 minutes or greater in the state of Washington, and
18 20 minutes or greater in all other states. All
19 other breaks are rest breaks which are paid." Is
20 that -- does that mean that anything more than 20
21 minutes in Oregon would be unpaid?

22 A. What it's saying here is if the break is
23 over 20 minutes long --

24 Q. Um-hum.

25 A. -- it would be considered a meal break.

1 Q. I see. And so -- and they don't pay?

2 A. And it would be unpaid.

3 Q. Okay.

4 A. But if the break was 20 minutes or under,
5 it would be considered a break and would be a rest
6 break and would be paid.

7 Q. I see.

8 A. The 20 minutes is a federal law.

9 Q. Okay. Do you know whether there's an
10 Oregon law, a separate Oregon law?

11 A. I do not --

12 Q. Okay.

13 A. -- know.

14 Q. Where would you go to find that out if you
15 had to?

16 A. We used an online service called RIA
17 Checkpoint, and that was our online service. We
18 would, you know, pay it annually, or -- or maybe
19 contract sometimes for a couple of years. Besides
20 which the -- when we would find out if there was a
21 change or, you know, something like that, we would
22 check that, as well as we'd go out to the -- a state
23 labor board website and get whatever requirements we
24 can find there just to make sure that the
25 information is consistent.

1 **THE VIDEOGRAPHER:** Back on record. The
2 time is 11:48 a.m.

3 **BY MR. EGAN:**

4 **Q.** Just a couple more things before we let
5 you go. That 20-minute dividing line between what's
6 paid and what's unpaid for a rest period or a meal
7 period, was that the same under the Kronos system
8 and the Jack's Timekeeping system?

9 **A.** Yes.

10 **Q.** All right. And my other question is, who
11 did you report to? Who was above you on the
12 hierarchy in the company?

13 **A.** I reported to Jim Lebbs for a while, and
14 then -- I remembered his last name this time. And -
15 - and then I reported to Wendy Sanderlin. And
16 previous to that, it was Mary Kregan.

17 **Q.** After Jim?

18 **A.** It was before Jim.

19 **Q.** Okay. So Mary Kregan, then Jim Lebbs,
20 then Wendy Sanderlin?

21 **A.** Correct.

22 **Q.** Did they all have the same job title?

23 **A.** No.

24 **Q.** Okay. What -- what were their different
25 job titles?

1 CERTIFICATE OF VIDEOGRAPHER
2

3 I the undersigned, Jamie Carlson, am a videographer
4 behalf of the NAEGLI REPORTING CORPORATION. I do hereby
5 certify that I have accurately made the video recording of
6 the deposition of Sylvia Dechandt, in the above captioned
7 matter on the 9th day of February, 2012, taken at the
8 location of 9330 Balboa Avenue, Corporate Headquarters,
9 Diego, CA 92123, consisting of 2 DVD(s).

10
11 No alterations, additions or deletions were made
12 thereto.

13
14 I further certify that I am not related to any of the
15 parties in the action and have no financial interest in
16 outcome of this matter.

17
18
19 Jamie Carlson

20 Videographer

21
22
23 2/9/2012

24 Date
25

1 CERTIFICATE

2
3 I, Leo Kniebel, do hereby certify that pursuant to
4 Rules of Civil Procedure, the witness named herein
5 before me at the time and place set forth in the caption
6 herein; that at the said time and place, I reported in
7 stenotype all testimony adduced and other oral proceedings
8 had in the foregoing matter; and that the foregoing
9 transcript pages constitute a full, true and correct
10 of such testimony adduced and oral proceeding had and of
11 whole thereof.

12
13 IN WITNESS HEREOF, I have hereunto set my hand this
14 17th day of February, 2012.

15
16
17
18
19
20
21 /S/ Leo Kniebel

22
23 Commission Expiration: March 2, 2012
24
25

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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

JESSICA GESSELE, ASHLEY GESSELE,
NICOLE GESSELE, TRICIA TETRAULT,
and CHRISTINA LUCHAU on behalf
of themselves and all others
similarly situated,

Plaintiffs,

Vs.

Civil No.:
3:10-cv-960-ST

JACK IN THE BOX INC., a
corporation of Delaware,

Defendant.



VIDEOTAPE DEPOSITION OF BARBARA KLUSEK
TAKEN ON BEHALF OF THE PLAINTIFFS
FRIDAY, FEBRUARY 10, 2012

1 analyst. She's actually new to the tax group. She
2 just joined.

3 There is Danielle Sullivan. She's a
4 analyst responsible for taxes. And Arlette Jumoc.

5 **Q. J-u-m-o-c?**

6 A. J-u-m-o-c, yes.

7 **Q. And she -- an analyst as well?**

8 A. She's an analyst as well.

9 **Q. How long has Sherry Hudson been dealing**
10 **with the tax part of it?**

11 A. Sherry joined Jack in the Box in June of
12 last year, so it's --

13 **Q. In that role?**

14 A. In that role, yes.

15 **Q. Do you know how long Danielle Sullivan has**
16 **been with the tax group?**

17 A. Don't know exactly.

18 **Q. Since before you came?**

19 A. Absolutely.

20 **Q. And how about Arlette Jumoc?**

21 A. Same situation, many years.

22 **Q. Okay.**

23 A. But I don't know exactly how many.

24 **Q. In preparing for today's deposition, did**
25 **you go back and look at the rate of worker's benefit**

1 fund deduction that was deducted from employees in
2 Oregon?

3 A. Yes.

4 Q. And what was the rate that was used?

5 A. The rate that was used on the paychecks
6 that I reviewed was 1.8 percent.

7 Q. Cents per hour?

8 A. Per -- yes.

9 Q. Do you know what rate was paid to the
10 Oregon government?

11 A. I -- the last report that was sent to the
12 Oregon was paid at .28.

13 Q. 2.8 cents per hour?

14 A. Yes.

15 MR. PARKER: Wait a minute.

16 THE WITNESS: No. 2.8 percent total.

17 BY MR. EGAN:

18 Q. Percent of the wages?

19 A. Percent of -- not wages, hours -- 2 cent
20 per hour.

21 Q. So for -- if an employee works one hour,
22 Jack in the Box sends a check to the state for 2.8
23 cents?

24 A. Correct.

25 Q. All right. And so is it your

1 understanding that Jack in the Box corporation pays
2 one cent towards that total and the employees paid
3 1.8 cents towards that total?

4 A. Based on the calculations that I've seen,
5 I believe that was the case.

6 Q. Okay. And what time frame were the
7 examples that you reviewed?

8 A. I reviewed 2004 to present.

9 Q. Are there corporate stores in Oregon
10 still?

11 A. No.

12 Q. Does Jack in the Box have any employees in
13 Oregon?

14 A. No.

15 Q. When was the last time Jack in the Box had
16 any current employees in Oregon?

17 A. In September of last year.

18 Q. 2011?

19 A. Yes.

20 Q. And at that time 2.8 cents an hour was
21 still being paid and 1.8 cents an hour was still
22 being withheld?

23 A. Correct.

24 Q. Do you have any understanding as to what
25 the legal rate that was required by the state of

1 **Oregon was for that withholding?**

2 A. Yes.

3 Q. Okay. And what is that?

4 A. The rate should be total 2.8 cents per

5 hour split evenly between employee and employer.

6 Q. And do you have any idea why Jack in the
7 Box was withholding more -- more than half?

8 A. No, I myself found out the details of it
9 just last week as I was doing my preparation for
10 this deposition. So I didn't know that there was an
11 error.

12 Q. Okay.

13 A. So I can't speak to what happened in the
14 past years.

15 Q. Okay. Do you know whether there are
16 papers that are -- or some form of notice that's
17 received from the Oregon government as to what the
18 new rates are?

19 A. I have not seen one.

20 Q. Okay.

21 A. I heard that there were, but I can't -- I
22 have never seen one.

23 Q. Okay. Who -- if it was your attorneys,
24 don't tell me, but did you hear from someone else
25 what those notices were?

1 A. No.

2 Q. Okay. And who are the employees in the
3 group that answers questions about shoe deductions?

4 A. Lisa Dearing, Leanne Tellez, and the
5 supervisor Tonya Elsom-Walton. She's a supervisor
6 of Lisa. She would be able to assist in questions
7 about shoes.

8 Q. You're going to have to spell her name for
9 us.

10 A. Tonya, T-o-n-y-a, Elsom, E-l-s-o-m,
11 Walton, W-a-l-t-o-n.

12 Q. So we understand from other people that
13 have come in and talked to us in these depositions
14 that employees can purchase shoes from various
15 vendors, nonslip shoes, by payroll deduction. Is
16 that still the case?

17 A. Correct.

18 Q. And how many paychecks is that split over?

19 A. Four.

20 Q. Does the employee get to pick how many or
21 that's just automatically done?

22 A. That is automatically the same, and that
23 would apply to all employees.

24 Q. And are there different vendors that have
25 that option available?

1 Q. Arlette Jumoc?

2 A. Jumoc.

3 Q. And are these paper files like file
4 cabinets or are they in the computer or --

5 A. Both.

6 Q. Both?

7 A. Yes.

8 Q. Okay. Do you know whether all of the
9 workers in Oregon paid the same workers' benefit
10 fund rate?

11 A. I don't know that for sure. I would
12 assume.

13 Q. All right. Is there a program that
14 automatically populates all the workers in a
15 jurisdiction with the same tax rate or does somebody
16 have to go in and change them one by one?

17 A. It's automatic because the deduction, for
18 example, Oregon workers' comp is a -- is one
19 deduction code, but it's used in the same way for
20 any employees.

21 Q. So the deduction code is programmed with
22 the percentage rate?

23 A. Correct.

24 Q. And then anyone who uses that deduction
25 code has the same rate applied to them?

1 A. Correct.

2 Q. Do you know whether all of the Oregon --
3 let's say the Oregon hourly employees had that same
4 deduction code for the workers' benefit fund?

5 A. I would assume so.

6 Q. Okay. If you had to check, how could you
7 find that out?

8 A. I could use the report that I mentioned
9 earlier, but that would mean looking at everybody's
10 paycheck for quite a few years.

11 Q. And having to do the math yourself?

12 A. I mean, the deduction would be visible on
13 that report per employee, so possibly, yes, using --
14 using one of the reporting features and loss -- and
15 showing all the deductions per employee.

16 Q. Is there a way to look at a deduction
17 code, any features of it or settings of it and see
18 how it's changed over time?

19 A. I'm not sure. I'm not sure. I don't
20 think there is because that's not a transaction
21 within Lawson that would create historical record,
22 so I don't think there is.

23 Q. So you would -- you could pick an employee
24 and drill down to their historical record, but you
25 can't do the same thing for a deduction code?

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17
18
19 Jamie Carlson

20 Videographer

21
22
23 2/10/2012

24 Date
25

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3 I, Lorie Rhyne, the certified Shorthand Reporter, in
4 and for the State of California, do hereby certify:

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6 THAT the foregoing proceedings were reported by me
7 stenographically and later transcribed under my direction;
8 that the foregoing is a true record of the proceedings
9 at that time.

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11 IN WITNESS HEREOF, I have transcribed my name this
12 day of February, 2012.

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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

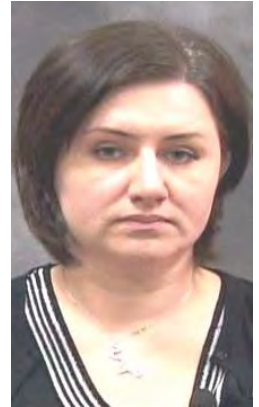
JESSICA GESSELE, ASHLEY GESSELE,
NICOLE GESSELE, TRICIA TETRAULT,
and CHRISTINA LUCHAU on behalf
of themselves and all others
similarly situated,

Plaintiffs,

Vs. Civil No.:
3:10-cv-960-ST

JACK IN THE BOX INC., a
corporation of Delaware,

Defendant.



VOLUME II
VIDEOTAPED DEPOSITION OF BARBARA KLUSEK
TAKEN ON BEHALF OF THE PLAINTIFFS
THURSDAY, FEBRUARY 16, 2012

1 Workers' Benefit Fund purposes, we just add up all
2 of everybody's hours, and that's the hours that are
3 used?

4 A. Correct.

5 Q. All right. Thank you.

6 And then what do we have here as Exhibit

7 8. This looks to be screen shots from Lawson.

8 A. It is --

9 Q. Tell us what we're looking at.

10 A. It is a screen shot from Lawson. This is
11 a sample how of -- how our deductions are set up.
12 This particular one shows the deduction called 80R,
13 which is for Oregon workers' compensation employee
14 portion, meaning Workers' Benefit Fund.

15 It shows several different details about
16 the deduction, including how that deduction would
17 show on the employee paycheck, how is it calculated,
18 and the rate that it's calculated at. The rate that
19 you see there under amount and percent is the rate
20 that I adjusted. Once I found out about the error,
21 I changed that rate to 1.4.

22 Q. Okay. And approximately when was that?

23 A. Last week. Friday. I might be mixing
24 days here.

25 Q. Okay. The PR260 reports that we received

1 separate cycle had to be determined, et cetera.

2 Q. Okay. So that doesn't necessarily
3 indicate some kind of calendar cycle or how often
4 something gets done. Those are just designations of
5 in which circumstances is this particular deduction
6 taken out?

7 A. Correct.

8 Q. All right. Going to the second page of
9 Exhibit 8, it has self-adjust tax Y. What does that
10 mean?

11 A. That would, again, be if a change would
12 have been made to the rate this tells Lawson to
13 recalculate anything that could -- that could result
14 in a different amount because of a change to how
15 deduction is set up.

16 Q. I see. So does this tell Lawson that if I
17 make a change in the rate in this master entry, you
18 need to populate that out to everybody in that
19 jurisdiction?

20 A. Correct.

21 Q. All right. And then the third and final
22 page of Exhibit 8 has an effective date on there?

23 A. That's January 1, 1997.

24 Q. Okay. Does that mean that that's when
25 that started, when this deduction was first

1 implemented?

2 A. That's when this deduction was first added
3 to Lawson.

4 Q. And the accrual account, is that -- well,
5 I don't know. What does that tell us, that accrual
6 account information?

7 A. That just tells -- I'm sorry. That tells
8 our accounting department where to record those
9 expenses.

10 Q. Okay. And how about the workers' -- that
11 WC rate table, what does that mean?

12 A. I'm not sure. I did not look in detail in
13 there.

14 Q. Okay. I think we said when we were
15 looking at Exhibit 7, the PR278, that it doesn't
16 matter which category people fall into, they all pay
17 the same Workers' Benefit Fund rate.

18 A. Right.

19 Q. Do you think that might be what that has
20 to do with or . . .

21 A. I don't think so.

22 Q. Okay.

23 A. No.

24 Q. Okay.

25 A. Because the pay -- the calculation is set

1 CERTIFICATE OF VIDEOGRAPHER
2

3 I the undersigned, Jamie Carlson, am a videographer
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17
18
19 Jamie Carlson

20 Videographer

21
22
23 2/16/2012

24 Date
25

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2
3 I KRISTY A. HUTCHINS, Certified Shorthand Reporter for the
4 State of California, do hereby certify:

5
6 That the witness in the foregoing deposition was by me
7 duly sworn to testify to the truth, the whole truth and
8 nothing but the truth in the foregoing cause; that the
9 deposition was taken by me in machine shorthand and later
10 transcribed into typewriting, under my direction, and that
11 the foregoing contains a true record of the testimony of
12 witness. Dated this 1st day of March, 2012, at San Diego,
13 California.

14
15
16
17
18
19 _____
20 KRISTY A. HUTCHINS

21 C.S.R. NO. 13551
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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

JESSICA GESSELE, ASHLEY GESSELE,
NICOLE GESSELE, TRICIA TETRAULT,
and CHRISTINA LUCHAU on behalf
of themselves and all others
similarly situated,

Plaintiffs,

Vs.

Civil No.:
3:10-cv-960-ST

JACK IN THE BOX INC., a
corporation of Delaware,

Defendant.



VIDEOTAPE DEPOSITION OF WENDY SANDERLIN
TAKEN ON BEHALF OF THE PLAINTIFFS
WEDNESDAY, FEBRUARY 8, 2012

1 A. Yes.

2 Q. -- is that AP?

3 A. Um-hum.

4 Q. What processes are in place to make sure
5 that the right percentages are deducted from
6 people's checks for payroll taxes?

7 A. Within Lawson, there's VSI, which is an --
8 which is a module within Lawson where each state and
9 local type of tax is configured, and that's applied
10 from the system to each of the employees as -- as
11 they -- as payments are made.

12 Q. Okay. Is that updated annually? Or how
13 does that work?

14 A. It's updated more often than that. As
15 things change, and as we go into new states and new
16 localities, updated as rates change, unemployment
17 rates we put in.

18 Q. And how do you know when the rates change?
19 Do you receive notice from the states, or...

20 A. We actually get notices from Talx, our
21 unemployment partner.

22 Q. How do you spell "Talx"?

23 A. T-A-L-X.

24 Q. Okay. And do they only give you
25 unemployment updates, or is that for everything?

1 out a notice every year that says for the following
2 year, these are going to be the tax rates that we
3 want you to apply to employees for withholding
4 purposes -- and by "withholding," I mean anything
5 that you take out of an employee's check, not just
6 income tax.

7 A. Um-hum.

8 Q. Where would that go?

9 A. So -- and I'm not certain about the income
10 tax tables.

11 Q. Okay.

12 A. I think that they're in Lawson. I think
13 it's VSI. But the unemployment is what I'm more
14 familiar with, and we get notices of rate --
15 unemployment rates that we put into the system.

16 Q. Is there one person that is designated to
17 receive those?

18 A. It -- that would be the responsibility of
19 Sherry --

20 Q. The payroll tax manager?

21 A. -- and that she -- yeah. And she works
22 with our IT person with applying patches and how VSI
23 works.

24 Q. Does the mailroom guy just know anything
25 that comes from --

1 A. Those are electronic.

2 Q. Okay.

3 A. We don't get them in the mail.

4 Q. So the payroll tax manager is the one who
5 electronically receives the notice updates every
6 year from the states?

7 A. And -- and she's proactively getting ones
8 that she doesn't get. So the -- the states release
9 them at different times.

10 Q. Okay.

11 A. Some of them back in November, and some of
12 them we haven't got yet -- gotten yet. So for the
13 ones we haven't gotten, we're putting in last year's
14 rate until we get -- but there's a -- a schedule of
15 when we should receive each state. And if we
16 haven't received it and that state has given them
17 out, then she's practically calling and making sure
18 that we locate it.

19 Q. Okay. Is that true also of municipal or
20 local or county or transit district? Anything less
21 than the state local taxes --

22 A. Um-hum.

23 Q. -- is -- is that also being tracked by the
24 payroll tax manager?

25 A. Yes. As we go into new -- new counties

1 A. For unemployment, they should be applied
2 uniformly.

3 Q. All right. How about for other kind of
4 non-tax deductions, like for the shoes, Shoes for
5 Crews purchases or other shoes purchases, or other
6 things that aren't specifically for taxes? How --
7 how does that money flow through for accounting
8 purposes?

9 A. If we had a Shoes for Crews, we get a file
10 from Shoes for Crews, and that file is processed
11 through a program that Scott created to split it.
12 So one file goes to payroll and one file goes to AP.
13 AP pays the vendor and payroll deducts the amounts.
14 And again, from a geo-perspective, those should be
15 equal and offsetting.

16 Q. What about Shoes for Crews' \$2 rebate that
17 it gives the company for shoes that are purchased by
18 the employees? Is that applied to the employee's
19 purchase, or is that cancelled out some other way in
20 accounting?

21 A. I do not believe it's applied to the
22 employee.

23 Q. Okay.

24 A. I think it's meant to offset the write-
25 offs that occur.

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16 outcome of this matter.

17
18
19 Jamie Carlson

20 Videographer

21
22
23 2/8/2012

24 Date
25

1 CERTIFICATE

2
3 I, Leo Kniebel, do hereby certify that pursuant to
4 Rules of Civil Procedure, the witness named herein
5 before me at the time and place set forth in the caption
6 herein; that at the said time and place, I reported in
7 stenotype all testimony adduced and other oral proceedings
8 had in the foregoing matter; and that the foregoing
9 transcript pages constitute a full, true and correct
10 of such testimony adduced and oral proceeding had and of
11 whole thereof.

12
13 IN WITNESS HEREOF, I have hereunto set my hand this
14 17th day of February, 2012.

15
16
17
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21 /S/ Leo Kniebel

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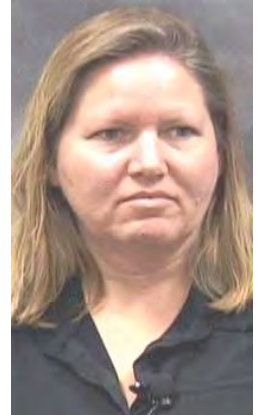
JESSICA GESSELE, ASHLEY GESSELE,
NICOLE GESSELE, TRICIA TETRAULT,
and CHRISTINA LUCHAU on behalf
of themselves and all others
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Plaintiffs,

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3:10-cv-960-ST

JACK IN THE BOX INC., a
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Defendant.



VOLUME II
VIDEOTAPED DEPOSITION OF WENDY SANDERLIN
TAKEN ON BEHALF OF THE PLAINTIFFS
THURSDAY, FEBRUARY 16, 2012

1 and shoe credits.

2 Q. Okay. So let's take those one at a time.

3 A. Okay.

4 Q. When you say "write-offs" --

5 A. When -- if an employee leaves the company

6 after making one payment and they didn't pay the

7 other three, then we are still liable to Shoes for

8 Crews. We still paid it. That's a loss.

9 Q. Just a loss to the company?

10 A. Yes.

11 Q. Now, let's say that an employee works two
12 days and then leaves.

13 A. Mm-hmm.

14 Q. Do they still have a payment deducted from
15 their final paycheck?

16 A. Not -- a lot of times we don't necessarily
17 know they're terminated until after they've gone, so
18 it depends. If we've been -- currently, we do not
19 but, historically, if we've known that that is their
20 final paycheck, then, yes.

21 Q. Is it just one payment that's deducted or
22 the balance?

23 A. The balance.

24 Q. Okay. So if you're aware that an employee
25 who's terminating has an unpaid balance, then the

1 entire balance is deducted from their final

2 paycheck?

3 A. Yes.

4 Q. Okay. And then -- so then you said the
5 rebates also go into this. That's the \$2 per shoe
6 ordered through payroll deduction?

7 A. The rebates are also in this account, yes.

8 Q. And then the shoe credits, what are those?

9 A. There is -- once a year, team leader and
10 above get a \$25 credit to offset the cost of the
11 shoes.

12 Q. And is that only applied to shoes
13 purchased or is it per --

14 A. It's through payroll deducts, because
15 those are the only ones that we're aware of.

16 Q. Okay. So let's say that a team leader
17 goes a year without buying any shoes.

18 A. Uh-huh.

19 Q. Is \$25 still applied to this account?

20 A. No.

21 Q. Only if they purchase shoes?

22 A. Yes.

23 Q. All right. And so these would -- then
24 would be a total -- these numbers that we're looking
25 at on Exhibit 4 would be a total of the write-offs,

1 A. Yes.

2 Q. Net of write-offs, rebates and shoe
3 credits?

4 A. Yes.

5 Q. All right.

6 MR. STUBBLEFIELD: There is a reason why I
7 didn't study accounting.

8 BY MR. EGAN:

9 Q. And just so we're clear, that \$2 rebate,
10 that's never refunded or applied to any individual
11 employee, is it?

12 A. That is true.

13 Q. It's correct that it's not?

14 A. That is correct that it's not.

15 Q. All right. So employees pay the full
16 price, Jack in the Box pays the shoe company the
17 full price, and then Jack in the Box receives a \$2
18 rebate later that's applied to a different account?

19 A. It's applied against the write-offs and
20 the credits, yes.

21 Q. Okay. Is there any reason why we don't
22 have -- why we didn't bring a rebate check, or is
23 that just --

24 A. You know, we just asked last minute last
25 night, and this is the -- it was provided quickly.

1 **Protection?**

2 A. Okay. It's changed recently. Yes, I
3 believe that to be true.

4 Q. Okay. That was meant to be a question,
5 not a statement.

6 A. Yes.

7 Q. But that's the general area that he's in?

8 A. Yes.

9 Q. All right. And then Lisa Dearing, what's
10 her current position?

11 A. She's the payroll representative.

12 Q. And what information did Lisa Dearing
13 provide to you?

14 A. She provided this.

15 Q. That's Exhibit 3?

16 A. Yes.

17 Q. And what information did Mr. James provide
18 to you?

19 A. He indicated that there was no written --
20 written agreement as to the rebates.

21 Q. Okay. And do you know that to be the
22 case, or you're relying on him?

23 A. I am relying on him. I have not seen any
24 written.

25 Q. And do you understand that to be true for

1 Q. Okay. And I understand -- Mr. Parker made
2 a brief statement before we went on the record, but
3 just so it's on the record, you're being produced
4 today as Jack in the Box's representative to speak
5 on the tracking of the shoe rebate through the
6 accounting system?

7 A. Yes.

8 Q. Okay. We've already spoken with you
9 before about your own personal knowledge, but today
10 you're here on behalf of Jack in the Box?

11 A. Yes.

12 Q. Okay. The rebate -- the \$2 rebate per
13 shoe, per pair of shoes purchased, has that been the
14 same since -- well, how long has that been in place?

15 A. I'm not aware of any changes --

16 Q. Okay.

17 A. -- to that.

18 Q. And I couldn't tell before from my notes.
19 I think you said -- is it currently the policy that
20 if you're aware an employee is going to be
21 terminated and they have a balance from a shoe
22 purchase, that that full balance is deducted from
23 their final paycheck?

24 A. It's currently the policy to only do one
25 payment.

1 Q. Okay. And how long has that been the
2 policy?

3 A. About a week.

4 Q. Okay. All right. And what -- before
5 that, what was the policy?

6 A. We were deducting any remaining balance.

7 Q. Oh, okay. Perhaps I misunderstood. So --

8 A. Okay.

9 Q. -- a week ago the policy became to only
10 deduct one of the four payments from the final
11 check. Is that what you're --

12 A. Right.

13 Q. Okay.

14 A. So if after one payment there were three
15 left, we were taking the three out from their final
16 paycheck.

17 Q. Before a week ago?

18 A. Yes.

19 Q. And what is it now?

20 A. We are taking only one.

21 Q. Only one. So let's say that they worked,
22 received one paycheck in the course of their work,
23 and then were terminated. They will have only made
24 two full payments, including the one off that other
25 final check?

1 a \$2 rebate every time somebody buys shoes?

2 **MR. EGAN:** Yes.

3 **MR. PARKER:** Okay.

4 **THE WITNESS:** I assume so. The -- what
5 you're asking about whether or not they were
6 terminated --

7 **BY MR. EGAN:**

8 **Q. Right.**

9 A. -- we're paying the rest of those, so
10 Shoes for Crews wouldn't have knowledge.

11 **Q. I see. So those are independent from each**
12 **other?**

13 A. Yes.

14 **Q. Whether someone pays all of the shoe**
15 **payments or not, the \$2 rebate is independent of**
16 **that?**

17 **A. Yes.**

18 **MR. EGAN:** Okay. That's what I wanted to
19 know. Mr. Parker has the ability to ask you any
20 questions now, but other than that, those were all
21 of my questions. Thank you.

22 **THE WITNESS:** Okay.

23 **MR. PARKER:** Okay. I have no questions.
24 Thank you very much.

25 **MR. EGAN:** Thanks for coming in --

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17
18
19 Jamie Carlson

20 Videographer

21
22
23 2/16/2012

24 Date

1 CERTIFICATE

2
3 I KRISTY A. HUTCHINS, Certified Shorthand Reporter for the
4 State of California, do hereby certify:

5
6 That the witness in the foregoing deposition was by me
7 duly sworn to testify to the truth, the whole truth and
8 nothing but the truth in the foregoing cause; that the
9 deposition was taken by me in machine shorthand and later
10 transcribed into typewriting, under my direction, and that
11 the foregoing contains a true record of the testimony of
12 witness. Dated this 1st day of March, 2012, at San Diego,
13 California.

14
15
16
17
18
19 _____
20 KRISTY A. HUTCHINS

21 C.S.R. NO. 13551
22
23
24
25



Oregon

John A. Kitzhaber, MD, Governor

Department of Consumer and Business Services

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February 8, 2012

Mr. Jon M. Egan
240 Sixth Street
Lake Oswego, OR 97034-2931

Dear Mr. Egan,

This is in response to your inquiries of February 1, 2012, regarding the Workers' Benefit Fund (WBF) assessment for Jack in the Box, Inc. This information is being provided under Oregon Revised Statute (ORS) 192.420 and 192.410(4).

To calculate the WBF assessment owed each quarter, the number of hours worked by each subject worker is multiplied by the assessment rate in effect for that quarter. ORS 656.506 (2) and (3) (as well as Oregon Administrative Rule (OAR) 436-070-0020(1)(b)) require that no more than half of the calculated assessment may be paid by the worker.

Listed below are the WBF assessment rates that were in effect from 2003-2012, and the dates each year's rate notice was mailed to employers.

Year	WBF assessment rate	Employee portion	Date Notice sent to Employers
2003	.036	.018	10/21/2002
2004	.034	.017	10/21/2003
2005	.034	.017	10/21/2004
2006	.030	.015	10/21/2005
2007	.028	.014	10/20/2006
2008	.028	.014	10/23/2007
2009	.028	.014	10/21/2008
2010	.028	.014	10/23/2009
2011	.028	.014	11/15/2010
2012	.028	.014	11/18/2011

Rate notices are mailed to the employer address of record as provided on the Combined Employer's Registration form that is submitted to the Oregon Employment Department when an employer registers for Oregon payroll tax reporting. Rate notices for 2003-2012 were sent to Jack in the Box Inc. at 9330 Balboa Ave, San Diego, CA 92123.

From 2003-2007 and fourth quarter 2009 to present, the account has had no credits other than penny credits created by discrepancies between how the employer and our automated system round the assessment calculation.

For first quarter 2008 through second quarter 2009, the employer filed amended reports. These amendments resulted in overpayments, which the employer requested be applied to offset debt in third quarter 2009.

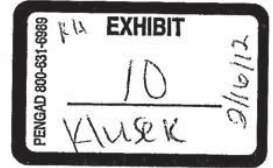
Sincerely,

Maureen Ficek, Assistant Manager
WBF Assessment Section
Dept. of Consumer & Business Services
503-947-7944





NOTICE TO OREGON EMPLOYERS NOVEMBER 18, 2011



WHAT EMPLOYERS WILL PAY FOR WORKERS' COMPENSATION IN 2012:

- Workers' compensation insurance premiums: The average pure premium rate will increase by 1.9 percent from the average 2011 level. Pure premiums are the base rates, before insurer costs are added.
- Workers' Benefit Fund ("cents-per-hour") assessment: 2.8 cents per hour or partial hour worked by each paid employee subject to workers' compensation coverage, unchanged from the past five years.
- Premium assessment: 6.2 percent for 2012, based on premiums paid, a decrease from 6.4 percent in 2011.

Please share this notice with your payroll and risk management staff.

2012 Workers' Compensation Insurance Average Premium Rate

The average pure premium rate Oregon employers will pay for workers' compensation insurance in 2012 will increase by 1.9 percent from the average 2011 level. The pure premium rate reflects market conditions in Oregon and is based on a recommendation from the National Council on Compensation Insurance (NCCI). Before this year's increase, the rate had decreased more than 60 percent since 1990, saving employers billions of dollars. The 1.9 percent increase in 2012 — driven by declining wages and increasing medical costs — represents an average across all types of businesses. Rates for specific businesses and industry groups may be higher or lower, depending on group and individual claim records. Your insurance carrier will provide you with rate information for policy year 2012. Employers pay their premiums directly to their insurers. Premiums do not fund state programs or services.

2012 Workers' Benefit Fund Assessment ("Cents-Per-Hour") Rate

For 2012, the Department of Consumer and Business Services has set the Workers' Benefit Fund assessment rate at 2.8 cents, unchanged from the past five years. This applies to each full or partial hour worked by each paid individual that an employer is required or chooses to provide with workers' compensation insurance coverage. This fund pays for programs that provide direct benefits to injured workers and their beneficiaries. The fund also provides money to help employers help injured workers return to work. Employers who fail to provide workers' compensation coverage required by law are still subject to the assessment. The rate of 2.8 cents per hour is the employer's and worker's rate combined. Employers pay at least half (1.4 cents per hour) of this assessment, and deduct no more than half from workers' wages. Each quarter, employers use Forms OQ and OTC (or approved electronic equivalents) to report and pay the assessment through Oregon's Combined Payroll Tax Reporting System. For more information about the assessment, go to www.oregon.gov/DCBS/FABS/wbf.shtml, call 503-378-2372, or e-mail wbfassess.fabs@state.or.us.

2012 Workers' Compensation Premium Assessment Rate

Effective Jan. 1, 2012, the assessment used to fund workers' compensation related programs and workplace safety and health programs that serve Oregon employers and workers will be set at an amount equal to 6.2 percent of the premiums charged for workers' compensation coverage, a decrease from 6.4 percent in 2011. Self-insured employers and self-insured employer groups will continue to pay an additional 0.2 percent into a reserve to pay claims in the event of a bankruptcy. Workers' compensation insurers, self-insured employers, and self-insured employer groups pay this assessment to the state. Insurers can pass on the cost of the assessment to the employers they cover, but must identify that cost as a separate line item on billing statements.

For more information about workers' compensation costs, contact your insurer, call the Oregon Department of Consumer and Business Services, 800-452-0288, or visit www.dcbs.oregon.gov and click on "Workers' Compensation Rates."

EX 10

Workers' Compensation Services for Employers

The Department of Consumer and Business Services provides many programs and services that have driven Oregon's success in keeping workers' compensation costs low and continuously improving workplace safety and health.

Return-to-work programs: Wage subsidies, premium exemptions, and reimbursements for worksite modifications and certain purchases. www.oregonrtw.info, 503-947-7813 or 800-445-3948 (toll-free)

Safety and health consultations: Free, confidential, on-site consultations from Oregon OSHA. 503-378-3272, 800-922-2689 or e-mail consult.web@state.or.us

Small Business Ombudsman for Workers' Compensation: For employers looking for workers' compensation insurance coverage and needing help in claim processing or claim management. 503-378-4209

Training: Oregon OSHA training on basic safety and health programs, safety committees, and accident investigation as well as technical training on specific topics such as ergonomics and excavations. 503-947-7443, 888-292-5247 or www.orosha.org. Workers' compensation training, conferences, workshops, and speakers. 503-947-7515

Dispute resolution: Help resolving disputes concerning medical services, medical fees, vocational assistance, claim closures, and workers' compensation insurance coverage issues. 503-947-7816 or 800-452-0288 (toll-free)

2012 Workers' Compensation
Premium Rate Information Enclosed

PRSR1 STD
US POSTAGE
PAID
SALEM OR
PERMIT NO 24

OREGON DEPARTMENT OF
CONSUMER & BUSINESS
SERVICES
350 Winter St. NE
P.O. Box 14480
Salem, OR 97309-0405

Jon M. Egan, OSB 002467
Jegan@eganlegalteam.com
Jon M. Egan, PC
240 Sixth Street
Lake Oswego, OR 97034-2931
Telephone: (503) 697-3427
Fax: (866) 311-5629
Attorney for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

**JESSICA GESSELE, ASHLEY GESSELE,
NICOLE GESSELE, TRICIA TETRAULT**
and **CHRISTINA LUCHAU**, on behalf of
themselves and all others similarly situated,

Plaintiffs,

vs.

**JACK IN THE BOX INC. A
CORPORATION OF DELAWARE,**

Defendant.

Case No. 3:10-cv-960-ST

DECLARATION OF
AUTHENTICATION

I do hereby declare and say:

1. My name is ANNETTE STEWART.
2. My employer is Business Software, Inc. ("BSI").
3. My current position is DIRECTOR, CUSTOMER SUPPORT SERVICES.
4. I have been designated as the agent of BSI's custodian of records for purposes of authenticating the documents produced in response to a subpoena duces tecum in the above-captioned case. All statements herein are made of my own personal

knowledge, and I am competent to testify thereto.

5. On March 20, 2012, counsel for BSI emailed counsel for the Plaintiffs 24 documents responsive to Plaintiffs' counsel's subpoena. Copies of each of those documents are attached hereto, Bates-numbered BSI 0001 – BSI 0082. Each of the documents was produced in its native electronic format (or, if no native electronic format existed, in PDF format) and is a true and correct copy of the original. All documents produced were created in the regular and normal course of business by an individual or individuals at BSI with personal knowledge of their contents and charged with their production as part of their normal duties. None of the documents produced were created for the purposes of this or any other litigation.
6. The original electronic file entitled "BSI_Tax Order Notification.pdf" and Bates-numbered PDF file entitled "BSI 0001_BSI_Tax Order Notification.pdf" and Bates-numbered BSI 0001 is a January 14, 1997 order form showing that a license in BSI-TAX was granted to Jack in the Box predecessor corporation Foodmaker, Inc.
7. The original electronic file entitled "BSI-Docs.pdf" and Bates-numbered PDF file entitled "BSI 0002-04_BSI-Docs.pdf" and Bates-numbered BSI 0002 – BSI 0004 contains the documents showing Jack in the Box's cancellation of support for BSI-TAX in 2003.
8. The original electronic file entitled "jac Amend 4 090630.pdf" and Bates-numbered PDF file entitled "BSI 0005-06_Amendment No. 4.pdf" and Bates-numbered BSI 0005 – BSI 0006 is a 2009 amendment to BSI's contract with Jack in the Box.

9. The original electronic file entitled “jac Amend No5 100713.pdf” and Bates-numbered PDF file entitled “BSI 0007_Amendment No. 5.pdf” and Bates-numbered BSI 0007 is a 2010 amendment to BSI’s contract with Jack in the Box.
10. The original electronic file entitled “jac PVMA 040712.pdf” and Bates-numbered PDF file entitled “BSI 0008-10_Platform Version Mod. Agreement.pdf” and Bates-numbered BSI 0008 – BSI 0010 is a 2004 Platform Version Modification Agreement.
11. The original electronic file entitled “Platform Change Req. Agreement.pdf” and Bates-numbered PDF file entitled “BSI 0011-13_Platform Change Req. Agreement.pdf” and Bates-numbered BSI 0011 – BSI 0013 is a 2003 Platform Change Requirements Agreement.
12. The original electronic file entitled “Platform Version Change Req. Agreement.pdf” and Bates-numbered PDF file entitled “BSI 0014-16_Platform Version Change Req. Agreement.pdf” and Bates-numbered BSI 14 – BSI 0016 is a 2005 Platform Version Change Requirements Agreement.
13. The original electronic file entitled “Sublicense_Support Notification.pdf” and Bates-numbered PDF file entitled “BSI 0017-18_Sublicense_Support Notification.pdf” and Bates-numbered BSI 0017 – BSI 0018 is a 2001 order form showing that a license in TaxFactory was granted to Jack in the Box.
14. The original electronic file entitled “Support agreement.pdf” and Bates-numbered PDF file entitled “BSI 0019-21_Support agreement.pdf” and Bates-numbered BSI 0019 – BSI 0021 is the 2001 contract between Jack in the Box and BSI for support for BSI-TAX.
15. The original electronic file entitled “TaxFactory_Locator Upgrade_Support

Agmt.pdf” and Bates-numbered PDF file entitled “BSI 0022-25_TaxFactory_Locator Upgrade_Support Agmt.pdf” and Bates-numbered BSI 0022 – BSI 0025 is the 2001 contract between Jack in the Box and BSI for support for TaxFactory.

16. Since 1997, BSI has made Cyclic and Release Bulletins available for download by our customers through our website. Customers are notified via e-mail when a new Cyclic or Release Bulletin is posted. The original electronic file entitled “TF 60 m Client notice.rtf” and Bates-numbered BSI 0026 (included in Bates-numbered PDF file entitled “BSI 0026-28_Patti Odell emails.pdf”) is an e-mail notice sent on August 13, 2004 from BSI employee Patty Odell to Jack in the Box (among others) regarding the TaxFactory Cyclic Release 6.0.m client package.
17. The original electronic file entitled “TF 70 b AS400-RPB API changes.rtf” and Bates-numbered BSI 0027 – BSI 0028 (included in Bates-numbered PDF file entitled “BSI 0026-28_Patti Odell emails.pdf”) is a September 16, 2004 email from BSI employee Patty Odell to Jack in the Box (among others) regarding the TaxFactory Release 7.0.b.
18. The original electronic file entitled “tfu06m.htm” and Bates-numbered PDF file entitled “BSI 0029-32_Cyclic Data_Version m.pdf” and Bates-numbered BSI 0029 – BSI 0032 is an August 2, 2004 document describing the contents of Cyclic Data – Version m for TaxFactory Release 6.0.
19. The original electronic file entitled “tfu07b.htm” and Bates-numbered PDF file entitled “BSI 0033-36_Cyclic Data_Version b.pdf” and Bates-numbered BSI 0033 – BSI 0036 is an October 5, 2004 document describing the contents of Cyclic Data – Version B for TaxFactory Release 7.0.

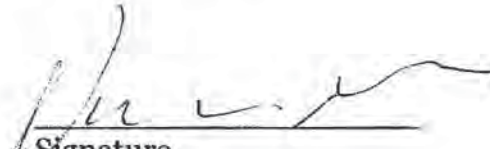
20. The original electronic file entitled “tfu06026.htm” and Bates-numbered PDF file entitled “BSI 0037-40_Regulatory Bulletin No. 26.pdf” and Bates-numbered BSI 0037 – BSI 0040 is a March 6, 2000 document describing the contents of Regulatory Bulletin Number 26 for TaxFactory Release 6.0.
21. The original electronic file entitled “tfu06049.htm” and Bates-numbered PDF file entitled “BSI 0041-45_Regulatory Bulletin No. 49.pdf” and Bates-numbered BSI 0041 – BSI 0045 is a November 6, 2000 document describing the contents of Regulatory Bulletin Number 49 for TaxFactory Release 6.0.
22. The original electronic file entitled “tfu06078.htm” and Bates-numbered PDF file entitled “BSI 0046-49_Regulatory Bulletin No. 78.pdf” and Bates-numbered BSI 0046 – BSI 0049 is a May 3, 2001 document describing the contents of Regulatory Bulletin Number 78 for TaxFactory Release 6.0.
23. The original electronic file entitled “tfu06114.htm” and Bates-numbered PDF file entitled “BSI 0050-53_Regulatory Bulletin No. 114.pdf” and Bates-numbered BSI 0050 – BSI 0053 is a December 14, 2001 document describing the contents of Regulatory Bulletin Number 114 for TaxFactory Release 6.0.
24. The original electronic file entitled “tfu06115.htm” and Bates-numbered PDF file entitled “BSI 0054-60_Regulatory Bulletin No. 115.pdf” and Bates-numbered BSI 0054 – BSI 0060 is a December 21, 2001 document describing the contents of Regulatory Bulletin Number 115 for TaxFactory Release 6.0.
25. The original electronic file entitled “tfu06246.htm” and Bates-numbered PDF file entitled “BSI 0061-64_Regulatory Bulletin No. 246.pdf” and Bates-numbered BSI 0061 – BSI 0064 is a November 14, 2003 document describing the contents of Regulatory Bulletin Number 246 for TaxFactory Release 6.0., including the

- decrease in the tax rate for the Oregon Employee Workers' Benefit Fund Assessment from 1.8¢ per hour to 1.7¢ per hour, effective 1/1/2004.
26. The original electronic file entitled "tfuo7012.htm" and Bates-numbered PDF file entitled "BSI 0065-68_Regulatory Bulletin No. 012.pdf" and Bates-numbered BSI 0065 – BSI 0068 is a November 14, 2003 document describing the contents of Regulatory Bulletin Number 012 for TaxFactory Release 7.0., including the decrease in the tax rate for the Oregon Employee Workers' Benefit Fund Assessment from 1.8¢ per hour to 1.7¢ per hour, effective 1/1/2004.
 27. The original electronic file entitled "TFU07121.HTM" and Bates-numbered PDF file entitled "BSI 0069-72_Regulatory Bulletin No. 121.pdf" and Bates-numbered BSI 0069 – BSI 0072 is a November 23, 2005 document describing the contents of Regulatory Bulletin Number 121 for TaxFactory Release 7.0, including the decrease in the tax rate for the Oregon Employee Workers' Benefit Fund Assessment from 1.7¢ per hour to 1.5¢ per hour, effective 1/1/2006.
 28. The original electronic file entitled "TFU07167 .HTM" and Bates-numbered PDF file entitled "BSI 0073-77_Regulatory Bulletin No. 167.pdf" and Bates-numbered BSI 0073 – BSI 0077 is a November 10, 2006 document describing the contents of Regulatory Bulletin Number 167 for TaxFactory Release 7.0, including the decrease in the tax rate for the Oregon Employee Workers' Benefit Fund Assessment from 1.5¢ per hour to 1.4¢ per hour, effective 1/1/2007.
 29. The original electronic file entitled "tfuo8007.htm" and Bates-numbered PDF file entitled "BSI 0078-82_Regulatory Bulletin No. 007.pdf" and Bates-numbered BSI 0078 – BSI 0082 is a November 10, 2006 document describing the contents of Regulatory Bulletin Number 007 for TaxFactory Release 8.0, including the

decrease in the tax rate for the Oregon Employee Workers' Benefit Fund
Assessment from 1.5¢ per hour to 1.4¢ per hour, effective 1/1/2007.

DATED APRIL 2, 2012

I hereby declare and certify that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.


Signature

From: Patty Odell
Sent: Friday, August 13, 2004 11:08 AM
To: Patty Odell
Subject: BSI TaxFactory 6.0.m Client Package

August 13, 2004

Dear Client:

The TaxFactory Cyclic Release 6.0.m client package has been corrected and re-posted on the BSI web site. A problem with the printing of the What-If Detail Calculation Results has been corrected.

If you have already upgraded to TaxFactory Cyclic 6.0.m you will need to re-download and re-install the TaxFactory Cyclic 6.0.m Client package only.

To download the Client Software, Server Software and Cyclic Data:

- Go to www.bsi.com
- Click on the Customer Portal
- Log in using your User ID and Password
- Select TaxFactory
- Select Support Services
- Select Cyclic Bulletins
- Select "go" at the top of the page to bring up the Client Package and Server Package Download

To read the General Instructions for Downloading:

- Click on the "Help" button to read the General Instructions for Downloading

To view and print the Cyclic and Cyclic Data Bulletins:

- Select Bulletin Information and Bulletin Data Information under Documents

If you have not already obtained the TaxFactory Cyclic 6.0.m installation password, the contact for your company should e-mail BSI.SECURITY@BSI.COM Monday through Friday between the hours of 9:00 a.m. and 5:30 p.m. Eastern Time, excluding holidays, indicating in the subject "Password Request – TF 6.0.m." Requests outside of these hours will be processed on the next business day.

We apologize for any inconvenience this may have caused.

Please contact support@bsi.com if you have further questions.

Thank you,
BSI Support Staff

From: Patty Odell
Sent: Thursday, September 16, 2004 11:20 AM
To: Patty Odell
Subject: BSI TaxFactory 7.0.b
TaxFactory 7.0.b
Notice of AS400 - RPG API changes
and Mandatory Cyclic Upgrade
(September 16, 2004)

Release 7.0.b of TaxFactory is scheduled to be provided to you by September 20th, 2004. TaxFactory 7.0.b corrects the length of a data structure in the AS400 QRPGLSRC/RPGIFPGM API copy module. We reduced the TaxLocator field TLTREC from 30 characters to 28 characters and changed it to be a multiple occurrence (50) data structure. Fields TLTX01 – TLTX50 were modified according to the new TLTREC data structure definition.

This upgrade also includes non-resident reciprocal tax credit processing. Effective 7/1/2004, Maryland has enacted an additional 1.25% non-resident tax rate. This Maryland non-resident tax increase only applies to those Maryland non-residents not subject to a county income tax, such as residents of a Delaware or a New York locality that imposes a non-resident tax.

TF 7.0.b also introduces new calculation methods that will use year-to-date wages instead of annualized wages. Calculation methods are used when overriding BSI supported tax formulas or setting up unique Custom Tax formulas. These new methods can be established via the Group Overrides or Custom Formula Modeling Tools. The new calculation methods utilize the year-to-date wage and year-to-date tax parameters, which must be passed in the program-to-program interface between TaxFactory and your payroll system.

Normally cyclic bulletin changes are optional. However, due to the Maryland Regulatory data changes and other cyclic data format changes, this mandatory cyclic upgrade must be installed as soon as possible, but no later than November 30th, 2004 in order to keep your TaxFactory system current.

Please note that a complete list of 7.0.b features and enhancements will be provided with the Cyclic Bulletin.


If you have any questions, please email us at support@bsi.com.

Sincerely,

BSI Support Staff

TFU06026

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TaxFactory™ Release 6.0 Regulatory Bulletin Number 26

March 6, 2000

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Confidential Information Proprietary To BSI

ENGINES AFFECTED BY DATA CHANGES:

BSI-TAX™ Engine	X
ReciprocalTax™ Engine	X
WageAssessor™ Engine	
BenefitPlan™ Engine	X
PensionTax™ Engine	
TaxLocator™ Engine	

BSI-TAX™ Engine

Federal Taxes	
States and Possessions Taxes	X
Local Taxes	X

States and Possessions Taxes

Authority	BSI System Code	Tax Type	Effective Date	Change Description
				Adds an Alabama Job Development Fee which is identical to the existing withholding formula. This

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Page 2 of 4

Alabama	00010000	Withholding	N/A	<p>is an employee paid tax <u>used by approved employers</u> who require a means to identify <u>covered employees</u> and amounts withheld for reporting purposes. This change is effective immediately.</p> <p>If this fee is applicable to your organization and you wish to use the fee in lieu of the state withholding formula, pass the value "2" in the BSI Formula Number parameter of the program-to-program interface between BSI-TAX and your payroll system.</p>
California	00060000	Employee Disability Tax	04/01/2000	Increases the tax rate from .5% to .7% and the maximum tax from \$231.64 to \$324.29. This tax will automatically self adjust based on current and year-to-date information, unless self adjust has been turned off.
California	00060000	Employee Voluntary Disability Tax	04/01/2000	Increases the tax rate from .5% to .7% and the maximum tax from \$231.64 to \$324.29. This tax will automatically self adjust based on current and year-to-date information, unless self adjust has been turned off.
New Mexico	00350000	Employee Worker Compensation	01/01/2000	<p>Adds a new tax (Tax Type=40). This is a flat \$2.00 quarterly tax which is assessed on each employee who is covered under worker's compensation on the last day of each quarter. <u>Please note that you are responsible for making sure that this tax is only requested for covered employees. You must also initialize the payroll quarter-to-date accumulators for this tax for the first payroll run in each quarter.</u></p> <p>In order to activate the Employee Worker Compensation Tax type, your payroll code for this tax must be converted in the program to program interface between BSI-TAX and your payroll to the value 40 in the BSI Tax Type parameter. You must also pass the quarter-to-date tax amount prior to this pay period in the To Date Tax parameter.</p>
New Mexico	00350000	Employer Worker Compensation	01/01/2000	<p>Adds a new tax (Tax Type=30). This is a flat \$2.00 quarterly tax which is assessed on each employee who is covered under worker's compensation on the last day of each quarter. <u>Please note that you are responsible for making sure that this tax is only requested for covered employees. You must also initialize the payroll quarter-to-date accumulators for this tax for the first payroll run in each quarter.</u></p> <p>In order to activate the Employer Worker Compensation Tax type, your payroll code for this tax must be converted in the program to program interface between BSI-TAX and your payroll to the value 30 in the BSI Tax Type parameter. You must also pass the quarter-to-date tax amount prior to this pay period in the To Date Tax parameter.</p>
Oregon	00410000	Employee Worker Compensation	01/01/2000	Decreases the tax amount from .21 to .20 per hour and changes the description to "EE Workers Benefit Fund Assessment".
Oregon	00410000	Employer Worker Compensation	01/01/2000	Decreases the tax amount from .21 to .20 per hour and changes the description to "ER Workers Benefit Fund Assessment".

Local Taxes

Authority	BSI System Code	State	County	Tax Type	Effective Date	Change Description
Tuskegee (City)	00010013	AL	Macon	Occupation Tax	01/01/1999	Rescinds the minimum taxable

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						wage limit of \$3,000.
--	--	--	--	--	--	------------------------

ReciprocalTax™ Engine

Federal Taxes	
States and Possessions Taxes	X
Local Taxes	

States and Possessions Taxes

Authority	BSI System Code	Tax Type	Effective Date	Change Description
Louisiana	00210000	Withholding	N/A	Modifies the Louisiana resident default reciprocal formula to tax on all taxable wages in all reciprocal states while returning taxable wages based on percent worked in the resident authority.
Pennsylvania	00420000	Withholding	N/A	Modifies the Pennsylvania resident default reciprocal formula to tax the resident authority only when there is no non-resident tax, ignoring any excess wages in the resident authority.

BenefitPlan™ Engine

Federal Taxes	
States and Possessions Taxes	
Local Taxes	X

Local Taxes

Authority	BSI System Code	State	County	Tax Type	Effective Date	Change Description
Delaware (City)	00391116	OH	Delaware	Withholding	N/A	Modifies the tax formula for all employer contributions to be nontaxable. This change is effective immediately.

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Comments

BSI will be *closed* on the following day(s):
May 29, 2000


Notes

1.	It is important that we have your firm's proper contact name, address, phone number, e-mail address and hardware information. Please contact BSI with any corrections or changes in writing via fax (770 448-3208), e-mail (CUSTOMER.SERVICES@BSIHQ.COM) or regular mail.
2.	Information on TaxFactory Support Services is located in the TaxFactory On-line Help.
3.	Tax updates are made available to customers as soon as they are certified for production by the Quality Assurance Team. If you receive your updates via e-mail, set your notification options so that you are immediately notified through your e-mail system when updates are delivered.
4.	QuickFormulas have been updated for the tax changes listed above. QuickFormulas is an Add-On product to TaxFactory. For more information on QuickFormulas, visit our Web site (WWW.BSIHQ.COM).

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TaxFactory™ **Release 6.0**

Regulatory Bulletin **Number 49**

November 6, 2000

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ENGINES AFFECTED BY DATA CHANGES:

BSI-TAX™ Engine	X
ReciprocalTax™ Engine	X
WageAssessor™ Engine	
BenefitPlan™ Engine	
PensionTax™ Engine	X
TaxLocator™ Engine	X

BSI-TAX™ Engine

Federal Taxes	
States and Possessions Taxes	X
Local Taxes	X

States and Possessions Taxes

Authority	BSI System Code	Tax Type	Effective Date	Change Description
Illinois	00170000	Withholding	01/01/2000	Modifies the formula to allow any valid marital status value.

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Maine	00230000	Withholding	01/01/2001	Changes the withholding bracket tables.
Minnesota	00270000	Withholding	01/01/2001	Changes the withholding bracket tables and increases the exemption amount from \$2,800 to \$2,900. Decreases the supplemental flat rate from 7% to 6.25%.
Montana	00300000	Employer Unemployment	01/01/2001	Increases the wage base from \$17,700 to \$18,200.
Oregon	00410000	Employee Worker Compensation	01/01/2001	Decreases the tax amount from .20 to .18 per hour.
Oregon	00410000	Employer Worker Compensation	01/01/2001	Decreases the tax amount from .20 to .18 per hour.

Local Taxes

Authority	BSI System Code	State	County	Tax Type	Effective Date	Change Description
Texarkana (City)	00050001	AR	N/A	Withholding	N/A	Rescinds the null formula previously issued in Tax Update Bulletin #46. A cyclic release will be required to utilize a null formula.
North Kidder (Township)	00423086	PA	Carbon	Withholding	10/01/1993	Adds a new authority. This tax carries a .5% resident and 1% non-resident tax rate. Note: BSI is re-using a duplicate code that was established for Fairview Borough, Erie County. The code which is currently used for Fairview Borough is 00420856.
Independent (Township)	00423087	PA	Venango	Withholding	10/01/1993	Adds a new authority. This tax carries a 0% resident and non-resident tax rate. Note: BSI is re-using a duplicate code that was established for Fairview Township, Erie County. The code which is currently used for Fairview Township is 00420857.
Texarkana (City)	00480001	TX	N/A	Withholding	N/A	Rescinds the null formula previously issued in Tax Update Bulletin #46. A cyclic release will be required to utilize a null formula.

ReciprocalTax™ Engine

TFU06049

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Federal Taxes	
States and Possessions Taxes	
Local Taxes	X

Local Taxes

Authority	BSI System Code	State	County	Tax Type	Effective Date	Change Description
North Kidder (Township)	00423086	PA	Carbon	Withholding	10/01/1993	Adds the effective rate of 50%, to be used with Weatherly Area School District.
Independent (Township)	00423087	PA	Venango	Withholding	10/01/1993	Adds the effective rate of 0%, to be used with Oil City School District.

PensionTax™ Engine

Federal Taxes	
States and Possessions Taxes	X
Local Taxes	

States and Possessions Taxes

Authority	BSI System Code	Tax Type	Effective Date	Change Description
Maine	00230000	Periodic Withholding	01/01/2001	Changes the withholding bracket tables.
Minnesota	00270000	Periodic Withholding Non-Periodic Eligible Rollover Non-Periodic Nonqualifying	01/01/2001	Changes the withholding bracket tables and increases the exemption amount from \$2,800 to \$2,900. Decreases the supplemental flat rate from 7% to 6.25%.

TFU06049

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TaxLocator™ Engine

Federal Taxes	
States and Possessions Taxes	
Local Taxes	X

Local Taxes

Authority	BSI System Code	State	County	Change Description
Alabama Locals	N/A	AR	N/A	Modifies various place names.
California Locals	N/A	CA	N/A	Changes place names to exclude parentheses.
Colorado Locals	N/A	CO	N/A	Changes place names to exclude parentheses.
Indiana Locals	N/A	IN	N/A	Changes place names to exclude parentheses.

Comments

BSI will be *closed* on the following day(s):
November 23 & 24, 2000
December 25 & 26, 2000
January 1 & 15, 2001

Notes

1.	During the months of November and December, special fees will apply to all requests for shipping Tax Sequential Files.
2.	It is important that we have your firm's proper contact name, address, phone number, e-mail address and hardware information. Please contact BSI with any corrections or changes in writing via fax (770) 448-3208, e-mail (CUSTOMER.SERVICES@BSIHQ.COM) or regular mail.
3.	Information on TaxFactory Support Services is located in the TaxFactory Online Help.

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4.	Tax updates are made available to customers as soon as they are certified for production by the Quality Assurance Team. If you receive your updates via e-mail, set your notification options so that you are immediately notified through your e-mail system when updates are delivered.
5.	QuickFormulas and Pension QuickFormulas have been updated for the tax changes listed above. QuickFormulas and Pension QuickFormulas are Add-On products to TaxFactory. For more information on these products, visit our Web site (WWW.BSIHQ.COM).

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TaxFactory™ Release 6.0 Regulatory Bulletin Number 246

November 14, 2003

ENGINES AFFECTED BY DATA CHANGES:

BSI-TAX™ Engine	X
ReciprocalTax™ Engine	
WageAssessor™ Engine	
BenefitPlan™ Engine	X
PensionTax™ Engine	X
TaxLocator™ Engine	

BSI-TAX™ Engine

Federal Taxes	
States and Possessions Taxes	X
Local Taxes	X

States and Possessions Taxes

Authority	BSI System Code	Tax Type	Effective Date	Change Description
Kentucky	00210000	Withholding	01/01/2004	Increases the standard deduction from \$1,830 to \$1,870.

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North Carolina	00370000	Withholding	01/01/2004	Increases the standard deduction for Married and Qualifying Widow(er) from \$2,750 to \$3,000.
Oregon	00410000	Employer Unemployment	01/01/2004	Increases the maximum wage base from \$26,000 to \$27,000.
Oregon	00410000	Employee Workers' Benefit Fund Assessment	01/01/2004	Decreases the tax rate from 1.8% to 1.7% per hour.
Oregon	00410000	Employer Workers' Benefit Fund Assessment	01/01/2004	Decreases the tax rate from 1.8% to 1.7% per hour.

BenefitPlan™ Engine

Federal Taxes	
States and Possessions Taxes	X
Local Taxes	X

State and Possessions Taxes

Authority	BSI System Code	Tax Type	Effective Date	Change Description
Arizona	00040000	Employment Training Tax	N/A	Deletes the duplicate employee and employer matching benefit and earnings plan data. These changes are effective immediately.
Rhode Island	00440000	ER Re-Employment Placement Tax	N/A	Deletes the duplicate employee and employer matching benefit and earnings plan data. These changes are effective immediately.
Rhode Island	00440000	ER Job Devel. Assessment Tax	N/A	Deletes the duplicate employee and employer matching benefit and earnings plan data. These changes are effective immediately.

Local Taxes

Authority	BSI System Code	State	County	Tax Type	Effective Date	Change Description
Owensboro (City)	00210260	KY	Daviess	Employee Occupation	N/A	Modifies the earnings plan taxability data for various earning plans. Please refer to your audit report or you may contact BSI support at SUPPORT@BSI.COM to receive a list of effected earning plans.

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PensionTax™ Engine

Federal Taxes	
States and Possessions Taxes	X
Local Taxes	

States and Possessions Taxes

Authority	BSI System Code	Tax Type	Effective Date	Change Description
Kentucky	00210000	Periodic Withholding Non-Periodic Eligible Rollover Non-Periodic Non-Qualifying	01/01/2004	Increases the standard deduction from \$1,830 to \$1,870.
North Carolina	00370000	Periodic Withholding	01/01/2004	Increases the standard deduction for Married and Qualifying Widow(er) from \$2,750 to \$3,000.

Comments

BSI will be *closed* on the following day(s):

November 27 & 28, 2003

December 25 & 26, 2003

January 01, 2004

BSI will *close* at Noon on the following day:

December 17, 2003

Special Information

Keeping all messages in your Message Viewer may use all available database free space. BSI recommends monitoring table spaces and clearing old messages that are no longer required to prevent this from happening.

Notes

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1.	It is important that we have your firm's proper contact name, address, phone number, e-mail address and hardware information. Please contact BSI with any corrections or changes in writing via fax (770) 448-3208, e-mail mailto:(CUSTOMER.SERVICES@BSI.COM) or regular mail (155 Technology Parkway, Suite 100, Norcross, GA 30092).
2.	Information on TaxFactory Support Services is located in the TaxFactory On-line Help.
3.	Tax updates are made available to customers as soon as they are certified for production by the Quality Assurance Team. Set your notification options so that you are immediately notified through your e-mail system when updates are available for download.
4.	QuickFormulas TM and Pension QuickFormulas TM have been updated for the tax changes listed above.

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TaxFactory™ Release 7.0 Regulatory Bulletin Number 012

November 14, 2003

ENGINES AFFECTED BY DATA CHANGES:

BSI-TAX™ Engine	X
ReciprocalTax™ Engine	
WageAssessor™ Engine	
BenefitPlan™ Engine	X
PensionTax™ Engine	X
TaxLocator™ Engine	
WageAttachment™ Engine	

BSI-TAX™ Engine

Federal Taxes	
States and Possessions Taxes	X
Local Taxes	X

States and Possessions Taxes

Authority	BSI System Code	Tax Type	Effective Date	Change Description
	00210000	Withholding	01/01/2004	Increases the standard deduction from \$1,830 to

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Kentucky				\$1,870.
North Carolina	00370000	Withholding	01/01/2004	Increases the standard deduction for Married and Qualifying Widow(er) from \$2,750 to \$3,000.
Oregon	00410000	Employer Unemployment	01/01/2004	Increases the maximum wage base from \$26,000 to \$27,000.
Oregon	00410000	Employee Workers' Benefit Fund Assessment	01/01/2004	Decreases the tax rate from 1.8% to 1.7% per hour.
Oregon	00410000	Employer Workers' Benefit Fund Assessment	01/01/2004	Decreases the tax rate from 1.8% to 1.7% per hour.

BenefitPlan™ Engine

Federal Taxes	
States and Possessions Taxes	X
Local Taxes	X

State and Possessions Taxes

Authority	BSI System Code	Tax Type	Effective Date	Change Description
Arizona	00040000	Employment Training Tax	N/A	Deletes the duplicate employee and employer matching benefit and earnings plan data. These changes are effective immediately.
Rhode Island	00440000	ER Re-Employment Placement Tax	N/A	Deletes the duplicate employee and employer matching benefit and earnings plan data. These changes are effective immediately.
Rhode Island	00440000	ER Job Devel. Assessment Tax	N/A	Deletes the duplicate employee and employer matching benefit and earnings plan data. These changes are effective immediately.

Local Taxes

Authority	BSI System Code	State	County	Tax Type	Effective Date	Change Description
Owensboro (City)	00210260	KY	Daviess	Employee Occupation	N/A	Modifies the earnings plan taxability data for various earning plans. Please refer to your audit report or you may contact BSI support

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						at SUPPORT@BSI.COM to receive a list of effected earning plans.
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PensionTax™ Engine

Federal Taxes	
States and Possessions Taxes	X
Local Taxes	

States and Possessions Taxes

Authority	BSI System Code	Tax Type	Effective Date	Change Description
Kentucky	00210000	Periodic Withholding Non-Periodic Eligible Rollover Non-Periodic Non-Qualifying	01/01/2004	Increases the standard deduction from \$1,830 to \$1,870.
North Carolina	00370000	Periodic Withholding	01/01/2004	Increases the standard deduction for Married and Qualifying Widow(er) from \$2,750 to \$3,000.

Comments

BSI will be *closed* on the following day(s):

November 27 & 28, 2003

December 25 & 26, 2003

January 01, 2004

BSI will *close* at Noon on the following day:

December 17, 2003

Special Information

Keeping all messages in your Message Viewer may use all available database free space. BSI recommends monitoring table spaces and clearing old messages that are no longer required to prevent this from happening.

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Notes

1.	It is important that we have your firm's proper contact name, address, phone number, e-mail address and hardware information. Please contact BSI with any corrections or changes in writing via fax (770) 448-3208, e-mail mailto:(CUSTOMER.SERVICES@BSI.COM) or regular mail (155 Technology Parkway, Suite 100, Norcross, GA 30092).
2.	Information on TaxFactory Support Services is located in the TaxFactory On-line Help.
3.	Tax updates are made available to customers as soon as they are certified for production by the Quality Assurance Team. Set your notification options so that you are immediately notified through your e-mail system when updates are available for download.
4.	QuickFormulas TM and Pension QuickFormulas TM have been updated for the tax changes listed above.

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TaxFactory™ **Release 7.0** Regulatory Bulletin **Number 121**

November 23, 2005

Please note that BSI will be closed at Noon on Thursday, December 15, 2005 and will re-open for business at 9:00 AM on Friday, December 16, 2005. Please schedule all BSI-related activities accordingly.

ENGINES AFFECTED BY DATA CHANGES:

BSI-TAX™ Engine	X
ReciprocalTax™ Engine	
WageAssessor™ Engine	
PensionTax™ Engine	
TaxLocator™ Engine	
WageAttachment™ Engine	

BSI-TAX™ Engine

Federal Taxes	
States and Possessions Taxes	X
Local Taxes	X

States and Possessions Taxes

	BSI		Effective	Change Description
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Authority	System Code	Tax Type	Date	
Alaska	00020000	Employee Unemployment	01/01/2006	Increases the maximum wage base FROM \$27,900 TO \$28,700. Increases the tax rate FROM .5% TO .51%
Alaska	00020000	Employer Unemployment	01/01/2006	Increases the maximum wage base FROM \$27,900 TO \$28,700.
Massachusetts	00250000	Employer Retirement Plan - S.S.	N/A	Adds the default tax rate of 1%.
Massachusetts	00250000	Employer Retirement Plan - MED	N/A	Adds the default tax rate of 1%.
Michigan	00260000	Withholding	01/01/2006	Increases the personal exemption amount FROM \$3,200 TO \$3,300.
Nebraska	00310000	Employer Unemployment	01/01/2006	Increases the maximum wage base FROM \$7,000 TO \$8,000.
Nebraska	00310000	State Unemployment Insurance	01/01/2006	Increases the maximum wage base FROM \$7,000 TO \$8,000.
New Jersey	00340000	Employee Unemployment	01/01/2006	Increases the maximum wage base FROM \$24,900 TO \$25,800.
New Jersey	00340000	Employer Unemployment	01/01/2006	Increases the maximum wage base FROM \$24,900 TO \$25,800.
New Jersey	00340000	Employee Health Insurance Tax	01/01/2006	Increases the maximum wage base FROM \$24,900 TO \$25,800.
New Jersey	00340000	Employer Health Insurance Tax	01/01/2006	Increases the maximum wage base FROM \$24,900 TO \$25,800. Increases the tax rate FROM .2% TO .4%.
New Jersey	00340000	Employee Workforce Development Tax	01/01/2006	Increases the maximum wage base FROM \$24,900 TO \$25,800.
New Jersey	00340000	Employer Workforce Development Tax	01/01/2006	Increases the maximum wage base FROM \$24,900 TO \$25,800.
New Jersey	00340000	Employee Combined UI/WF&SWF/HC/DI Tax	01/01/2006	Increases the maximum wage base FROM \$24,900 TO \$25,800.
New Jersey	00340000	Employer Combined WF&SWF/HC/DI Tax	01/01/2006	Increases the maximum wage base FROM \$24,900 TO \$25,800. Increases the tax rate FROM .8175% TO 1.0175%.
New Jersey	00340000	Employee Disability	01/01/2006	Increases the maximum wage base FROM \$24,900 TO \$25,800.
New Jersey	00340000	Employer Disability	01/01/2006	Increases the maximum wage base FROM \$24,900 TO \$25,800.

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New Jersey	00340000	Employee Voluntary Disability	01/01/2006	Increases the maximum wage base FROM \$24,900 TO \$25,800.
New Jersey	00340000	Employer Voluntary Disability	01/01/2006	Increases the maximum wage base FROM \$24,900 TO \$25,800.
North Dakota	00380000	Employer Unemployment	01/01/2006	Increases the maximum wage base FROM \$19,400 TO \$20,300.
Oklahoma	00400000	Employer Unemployment	01/01/2006	Decreases the maximum wage base FROM \$13,800 TO \$13,500.
Oregon	00410000	Employee Workers Compensation Tax	01/01/2006	Decreases the tax rate per hours worked FROM 1.7% TO 1.5%.
Oregon	00410000	Employer Workers Compensation Tax	01/01/2006	Decreases the tax rate per hours worked FROM 1.7% TO 1.5%.
Washington	00530000	Employer Unemployment	01/01/2006	Increases the maximum wage base FROM \$30,500 TO \$30,900.

Local Taxes

Authority	BSI System Code	State	County	Tax Type	Effective Date	Change Description
Alexandria (City)	00210307	KY	Campbell	Employee Occupation	01/01/2006	Increases the maximum wage base FROM \$90,000 TO \$94,200.
Cold Springs (City)	00210295	KY	Campbell	Employee Occupation	01/01/2006	Increases the maximum wage base FROM \$90,000 TO \$94,200.
Florence (City)	00210226	KY	Boone	Employee Occupation	01/01/2006	Increases the maximum wage base FROM \$90,000 TO \$94,200.
Newport (City)	00210258	KY	Campbell	Employee Occupation	01/01/2006	Increases the maximum wage base FROM \$90,000 TO \$94,200.
Vandalia (City)	00391472	OH	Montgomery	Withholding	01/01/2006	Increases the tax rate FROM 1.75% TO 2%.
Tri-Met Trans. District (Other)	00410101	OR	N/A	Employer Tri-Met District Excise Tax	01/01/2006	Increases the tax rate FROM .6318% TO .6418%.

Special Information

Keeping all messages in your Message Viewer may use all available database free space. BSI recommends monitoring table spaces and clearing old messages that are no longer required to prevent this from happening.

Comments

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BSI will be *closed* on the following day(s):

November 24 & 25, 2005

December 23 & 26, 2005

Notes

1.	It is important that we have your firm's proper contact name, address, phone number, e-mail address and hardware information. Please contact BSI with any corrections or changes in writing via fax (770) 448-3208, e-mail (CUSTOMER.SERVICES@BSI.COM) or regular mail (155 Technology Parkway, Suite 100, Norcross, GA 30092).
2.	BSI has two toll free phone numbers that you may use to place calls to the Support Department. The phone numbers are (877) 274-7873 and (888) 293-3413.
3.	Information on TaxFactory Support Services is located in the TaxFactory On-line Help.
4.	Tax updates are made available to customers as soon as they are certified for production by the Quality Assurance Team. Set your notification options so that you are immediately notified through your e-mail system when updates are available for download.
5.	The BSI Website uses pop-up windows to display information to the user. If you have software that prevents the display of pop-up windows, you may experience difficulties taking advantage of all the functionality provided by the BSI Website, such as QuickFormulas. It may be necessary for you to modify the configuration of your pop-up disabling tool to allow the BSI Website to function correctly.
6.	QuickFormulas TM has been updated for the tax changes listed above.

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TaxFactory™ Release 7.0 Regulatory Bulletin Number 167

November 10, 2006

Please note that BSI will be closed at 12:00 PM EST on Friday, November 17, 2006 and will re-open for business at 9:00 AM EST on Monday, November 20, 2006. Please schedule all BSI-related activities accordingly.

ENGINES AFFECTED BY DATA CHANGES:

TaxFactory™ Engine	X
ReciprocalTax™ Engine	
WageAssessor™ Engine	X
PensionTax™ Engine	X
TaxLocator™ Engine	X
WageAttachment™ Engine	

TaxFactory™ Engine

Federal Taxes	
States and Possessions Taxes	X
Local Taxes	X

States and Possessions Taxes

	BSI		Effective	
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Authority	System Code	Tax Type	Date	Change Description
Hawaii	00150000	Withholding Tax Type 001	01/01/2007	Changes the wage bracket tables.
Oregon	00410000	Employer Special Payroll Tax Tax Type 009	01/01/2007	Increases the maximum wage base FROM \$28,000 TO \$29,000. This tax is effective for the first quarter of 2007 only.
Oregon	00410000	Employer Unemployment Tax Tax Type 010	01/01/2007	Increases the maximum wage base FROM \$28,000 TO \$29,000.
Oregon	00410000	Employer Workers Compensation Tax Tax Type 030	01/01/2007	Decreases the tax rate per hours worked FROM 1.5% TO 1.4%.
Oregon	00410000	Employee Workers Compensation Tax Tax Type 040	01/01/2007	Decreases the tax rate per hours worked FROM 1.5% TO 1.4%.

Local Taxes

Authority	BSI System Code	State	County	Tax Type	Effective Date	Change Description
South Clackamas Transit District (Other)	00410103	OR	Clackamas	Transit District Excise Tax Type 035	01/01/2007	Increases the tax rate FROM .3% TO .5%.
Beaver Falls (City)	00420132	PA	Beaver	Withholding Tax Type 001	N/A	Increases the non-resident tax rate FROM .5% TO 1%.

WageAssessor™ Engine

Federal Taxes	X
States and Possessions Taxes	X
Local Taxes	X

ALL Taxes

Authority	BSI System	Tax Type	Effective Date	Change Description
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	Code			
ALL	N/A	N/A	01/01/2007	<p>Increases employee benefit plan contribution non-taxable excludable limit FROM \$15,000 TO \$15,500 for the following plans: 401k (P001), 403b (P002), 408k (P003), 457b State & Local Government (P004), 7701j (P005 and 457b Tax Exempt Entity (P022).</p> <p>Increases employee benefit plan contribution non-taxable excludable limit FROM \$10,000 TO \$10,500 for Simple 401k (P014).</p> <p>These changes apply to state and local taxing authorities and tax types that follow the Federal benefit plan taxability guidelines.</p>

PensionTax™ Engine

Federal Taxes	
States and Possessions Taxes	X
Local Taxes	

States and Possessions Taxes

Authority	BSI System Code	Tax Type	Effective Date	Change Description
Maryland	00240000	Pension Non Periodic Eligible Rollover Tax Type 071	N/A	<p>Adds the non-periodic eligible rollover distribution method. Maryland income tax is required to be withheld from an eligible rollover distribution that is also subject to mandatory withholding of Federal income tax. The withholding amount is equal to the sum of the top marginal state income tax rate and the median local income tax rate.</p> <p>This composite State and local formula must be used in lieu of the standard Maryland local non-periodic withholding formulas when the non-periodic distribution is a "Federally-defined non-periodic eligible rollover distribution". Withholding from all other non-periodic distributions is voluntary, and should be calculated in accordance with the withholding methods provided within each of the Maryland City and County non-periodic withholding formulas.</p> <p>The tax is determined under this method by applying a flat rate to the eligible rollover distribution if the annual minimum distribution amount has been met.</p>

TaxLocator™ Engine

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Federal Taxes	
States and Possessions Taxes	
Local Taxes	X

Local Taxes

Authority	BSI System Code	State	County	Change Description
Elkland	N/A	OH	Tioga	Adds unique identifier of "Township" to the place name.
Tioga	N/A	OH	Tioga	Adds unique identifier of "Township" to Tioga.
Tioga	N/A	OH	Tioga	Adds unique identifier of "County" to Tioga.
VARIOUS	N/A	OH	VARIOUS	Removes school district from locator mapping data.

Special Information

Keeping all messages in your Message Viewer may use all available database free space. BSI recommends monitoring table spaces and clearing old messages that are no longer required to prevent this from happening.

Comments

BSI will be closed on the following day(s):
November 17, 2006 - Close at 12:00 PM EST
November 23 & 24, 2006
December 25 & 26, 2006

Notes

1. It is important that we have your firm's proper contact name, address, phone number, e-mail address and hardware information. Please contact BSI with any corrections or changes in writing via fax (770)

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	448-3208, e-mail (CUSTOMER.SERVICES@BSI.COM) or regular mail (155 Technology Parkway, Suite 100, Norcross, GA 30092).
2.	BSI has two toll free phone numbers that you may use to place calls to the Support Department. The phone numbers are (877) 274-7873 and (888) 293-3413.
3.	Information on TaxFactory Support Services is located in the TaxFactory On-line Help.
4.	Tax updates are made available to customers as soon as they are certified for production by the Quality Assurance Team. Set your notification options so that you are immediately notified through your e-mail system when updates are available for download.
5.	The BSI Website uses pop-up windows to display information to the user. If you have software that prevents the display of pop-up windows, you may experience difficulties taking advantage of all the functionality provided by the BSI Website, such as QuickFormulas. It may be necessary for you to modify the configuration of your pop-up disabling tool to allow the BSI Website to function correctly.
6.	QuickFormulas TM and Pension QuickFormulas TM have been updated for the tax changes listed above.

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TaxFactory™ Release 8.0 Regulatory Bulletin Number 007

November 10, 2006

Please note that BSI will be closed at 12:00 PM EST on Friday, November 17, 2006 and will re-open for business at 9:00 AM EST on Monday, November 20, 2006. Please schedule all BSI-related activities accordingly.

ENGINES AFFECTED BY DATA CHANGES:

TaxFactory™ Engine	X
ReciprocalTax™ Engine	
WageAssessor™ Engine	X
PensionTax™ Engine	X
TaxLocator™ Engine	X
WageAttachment™ Engine	

TaxFactory™ Engine

Federal Taxes	
States and Possessions Taxes	X
Local Taxes	X

States and Possessions Taxes

	BSI		Effective	
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Authority	System Code	Tax Type	Date	Change Description
Hawaii	00150000	Withholding Tax Type 001	01/01/2007	Changes the wage bracket tables.
Oregon	00410000	Employer Special Payroll Tax Tax Type 009	01/01/2007	Increases the maximum wage base FROM \$28,000 TO \$29,000. This tax is effective for the first quarter of 2007 only.
Oregon	00410000	Employer Unemployment Tax Tax Type 010	01/01/2007	Increases the maximum wage base FROM \$28,000 TO \$29,000.
Oregon	00410000	Employer Workers Compensation Tax Tax Type 030	01/01/2007	Decreases the tax rate per hours worked FROM 1.5% TO 1.4%.
Oregon	00410000	Employee Workers Compensation Tax Tax Type 040	01/01/2007	Decreases the tax rate per hours worked FROM 1.5% TO 1.4%.

Local Taxes

Authority	BSI System Code	State	County	Tax Type	Effective Date	Change Description
South Clackamas Transit District (Other)	00410103	OR	Clackamas	Transit District Excise Tax Type 035	01/01/2007	Increases the tax rate FROM .3% TO .5%.
Beaver Falls (City)	00420132	PA	Beaver	Withholding Tax Type 001	N/A	Increases the non-resident tax rate FROM .5% TO 1%.

WageAssessor™ Engine

Federal Taxes	X
States and Possessions Taxes	X
Local Taxes	X

ALL Taxes

Authority	BSI System	Tax Type	Effective Date	Change Description
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	Code			
ALL	N/A	N/A	01/01/2007	<p>Increases employee benefit plan contribution non-taxable excludable limit FROM \$15,000 TO \$15,500 for the following plans: 401k (P001), 403b (P002), 408k (P003), 457b State & Local Government (P004), 7701j (P005) and 457b Tax Exempt Entity (P022).</p> <p>Increases employee benefit plan contribution non-taxable excludable limit FROM \$10,000 TO \$10,500 for Simple 401k (P014).</p> <p>These changes apply to state and local taxing authorities and tax types that follow the Federal benefit plan taxability guidelines.</p>

PensionTax™ Engine

Federal Taxes	
States and Possessions Taxes	X
Local Taxes	

States and Possessions Taxes

Authority	BSI System Code	Tax Type	Effective Date	Change Description
Maryland	00240000	Pension Non Periodic Eligible Rollover Tax Type 071	N/A	<p>Adds the non-periodic eligible rollover distribution method. Maryland income tax is required to be withheld from an eligible rollover distribution that is also subject to mandatory withholding of Federal income tax. The withholding amount is equal to the sum of the top marginal state income tax rate and the median local income tax rate.</p> <p>This composite State and local formula must be used in lieu of the standard Maryland local non-periodic withholding formulas when the non-periodic distribution is a "Federally-defined non-periodic eligible rollover distribution". Withholding from all other non-periodic distributions is voluntary, and should be calculated in accordance with the withholding methods provided within each of the Maryland City and County non-periodic withholding formulas.</p> <p>The tax is determined under this method by applying a flat rate to the eligible rollover distribution if the annual minimum distribution amount has been met.</p>

TaxLocator™ Engine

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Federal Taxes	
States and Possessions Taxes	
Local Taxes	X

Local Taxes

Authority	BSI System Code	State	County	Change Description
Elkland	N/A	OH	Tioga	Adds unique identifier of "Township" to the place name.
Tioga	N/A	OH	Tioga	Adds unique identifier of "Township" to Tioga.
Tioga	N/A	OH	Tioga	Adds unique identifier of "County" to Tioga.
VARIOUS	N/A	OH	VARIOUS	Removes school district from locator mapping data.

Special Information

Keeping all messages in your Message Viewer may use all available database free space. BSI recommends monitoring table spaces and clearing old messages that are no longer required to prevent this from happening.

Comments

BSI will be *closed* on the following day(s):
November 17, 2006 - Close at 12:00 PM EST
November 23 & 24, 2006
December 25 & 26, 2006

Notes

1. It is important that we have your firm's proper contact name, address, phone number, e-mail address and hardware information. Please contact BSI with any corrections or changes in writing via fax (770)

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	448-3208, e-mail (CUSTOMER.SERVICES@BSI.COM) or regular mail (155 Technology Parkway, Suite 100, Norcross, GA 30092).
2.	BSI has two toll free phone numbers that you may use to place calls to the Support Department. The phone numbers are (877) 274-7873 and (888) 293-3413.
3.	Information on TaxFactory Support Services is located in the TaxFactory On-line Help.
4.	Tax updates are made available to customers as soon as they are certified for production by the Quality Assurance Team. Set your notification options so that you are immediately notified through your e-mail system when updates are available for download.
5.	The BSI Website uses pop-up windows to display information to the user. If you have software that prevents the display of pop-up windows, you may experience difficulties taking advantage of all the functionality provided by the BSI Website, such as QuickFormulas. It may be necessary for you to modify the configuration of your pop-up disabling tool to allow the BSI Website to function correctly.
6.	QuickFormulas TM and Pension QuickFormulas TM have been updated for the tax changes listed above.

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07133	Redacted	8278	Redacted	11/5/2004	5449277 System	495.09					WCER	33.93	
07133		8278		11/19/2004	5481850 System	499.51	REG	74.46	551.00	FED TAX	WC-OR	1.34	551.00
07133		8278		11/19/2004	5481850 System	499.51				SOC TAX		34.16	
07133		8278		11/19/2004	5481850 System	499.51				MED TAX		7.99	551.00
07133		8278		11/19/2004	5481850 System	499.51				OR WH		8.00	
07133		8278		11/19/2004	5481850 System	499.51					OR SUI	14.33	551.00
07133		8278		12/3/2004	5513983 System	482.71	OT 1	3.02	33.52	FED TAX	WC-OR	1.27	531.24
07133		8278		12/3/2004	5513983 System	482.71	REG	67.26	497.72	SOC TAX		32.94	
07133		8278		12/3/2004	5513983 System	482.71				MED TAX		7.70	531.24
07133		8278		12/3/2004	5513983 System	482.71				OR WH		6.62	
07133		8278		12/3/2004	5513983 System	482.71					OR SUI	13.81	531.24
07133		8278		12/17/2004	5546377 System	441.51	REG	65.25	482.85	FED TAX	WC-OR	1.17	531.24
07133		8278		12/17/2004	5546377 System	441.51				SOC TAX		29.94	
07133		8278		12/17/2004	5546377 System	441.51				MED TAX		7.00	482.85
07133		8278		12/17/2004	5546377 System	441.51				OR WH		3.23	
07133		8278		12/17/2004	5546377 System	441.51					OR SUI	12.55	482.85
07133		8278		12/31/2004	5578804 System	508.32	REG	75.86	561.36	FED TAX	WC-OR	1.37	561.36
07133		8278		12/31/2004	5578804 System	508.32				SOC TAX		34.80	
07133		8278		12/31/2004	5578804 System	508.32				MED TAX		8.14	561.36
07133		8278		12/31/2004	5578804 System	508.32				OR WH		8.73	
07133		8278		12/31/2004	5578804 System	508.32					OR SUI	14.60	561.36
07133		8278		12/31/2004	5578804 System	508.32					WCER	34.90	
07139	9813			19/2004	4712183 System	398.46	OT 1	4.00	42.60	FED TAX	WC-OR	1.25	506.51
07139	9813			19/2004	4712183 System	398.46	REG	65.34	463.91	SOC TAX	SFC	11.37	506.51
07139	9813			19/2004	4712183 System	398.46				MED TAX		7.34	506.51
07139	9813			19/2004	4712183 System	398.46				OR WH		36.81	506.51
07139	9813			19/2004	4712183 System	398.46					OR SUI	13.17	506.51
07139	9813			19/2004	4712183 System	398.46					WCER	31.90	
07139	9813			1/23/2004	4747109 System	394.53	REG	70.60	501.26	FED TAX	WC-OR	1.27	501.26
07139	9813			1/23/2004	4747109 System	394.53				SOC TAX	SFC	11.37	501.26
07139	9813			1/23/2004	4747109 System	394.53				MED TAX		7.27	501.26
07139	9813			1/23/2004	4747109 System	394.53				OR WH		36.38	501.26
07139	9813			1/23/2004	4747109 System	394.53					OR SUI	13.03	501.26
07139	9813			1/23/2004	4747109 System	394.53					WCER	32.48	
07139	9813			2/6/2004	4781232 System	410.20	REG	71.42	507.08	FED TAX	WC-OR	1.29	507.08
07139	9813			2/6/2004	4781232 System	410.20				SOC TAX		31.44	
07139	9813			2/6/2004	4781232 System	410.20				MED TAX		7.36	507.08
07139	9813			2/6/2004	4781232 System	410.20				OR WH		36.85	507.08
07139	9813			2/6/2004	4781232 System	410.20					OR SUI	13.18	507.08
07139	9813			2/6/2004	4781232 System	410.20					WCER	32.85	
07139	9813			2/20/2004	4814805 System	614.42	OT 1	0.19	2.02	FED TAX	WC-OR	1.44	782.31
07139	9813			2/20/2004	4814805 System	614.42	REG	79.90	567.29	SOC TAX		48.50	782.31
07139	9813			2/20/2004	4814805 System	614.42	VAC	30.00	213.00	MED TAX		11.34	782.31
07139	9813			2/20/2004	4814805 System	614.42				OR WH		59.15	782.31
07139	9813			2/20/2004	4814805 System	614.42					WCER	50.64	
07139	9813			3/5/2004	4848945 System	443.89	REG	77.83	552.59	FED TAX	WC-OR	1.40	552.59
07139	9813			3/5/2004	4848945 System	443.89				SOC TAX		34.26	
07139	9813			3/5/2004	4848945 System	443.89				MED TAX		8.01	552.59
07139	9813			3/5/2004	4848945 System	443.89				OR WH		40.54	552.59
07139	9813			3/5/2004	4848945 System	443.89					OR SUI	14.37	552.59
07139	9813			3/5/2004	4848945 System	443.89					WCER	35.80	
07139	9813			3/19/2004	4882573 System	422.45	REG	73.75	523.63	FED TAX	WC-OR	1.33	523.63
07139	9813			3/19/2004	4882573 System	422.45				SOC TAX		32.47	
07139	9813			3/19/2004	4882573 System	422.45				MED TAX		7.59	523.63
07139	9813			3/19/2004	4882573 System	422.45				MED TAX		4.19	523.63
07139	9813			3/19/2004	4882573 System	422.45				OR WH		38.20	523.63
07139	9813			3/19/2004	4882573 System	422.45					OR SUI	13.61	523.63
07139	9813			3/19/2004	4882573 System	422.45					WCER	33.93	
07139	9813			4/2/2004	4916418 System	486.09	OT 1	4.57	48.67	FED TAX	WC-OR	1.50	609.57
07139	9813			4/2/2004	4916418 System	486.09	REG	79.00	560.90	SOC TAX		30.19	609.57
07139	9813			4/2/2004	4916418 System	486.09				MED TAX		37.79	609.57
07139	9813			4/2/2004	4916418 System	486.09				OR WH		8.84	609.57
07139	9813			4/2/2004	4916418 System	486.09					OR SUI	15.85	609.57
07139	9813			4/2/2004	4916418 System	486.09					WCER	38.44	
07139	9813			4/16/2004	4950436 System	412.58	REG	71.87	510.28	FED TAX	WC-OR	1.29	510.28
07139	9813			4/16/2004	4950436 System	412.58				SOC TAX		20.26	
07139	9813			4/16/2004	4950436 System	412.58				MED TAX		31.64	510.28
07139	9813			4/16/2004	4950436 System	412.58				OR WH		7.40	510.28
07139	9813			4/16/2004	4950436 System	412.58					OR SUI	4.08	510.28
07139	9813			4/16/2004	4950436 System	412.58					WCER	13.27	510.28
07139	9813			4/30/2004	4984576 System	400.49	REG	69.57	493.95	FED TAX	WC-OR	1.25	493.95
07139	9813			4/30/2004	4984576 System	400.49				SOC TAX		30.63	
07139	9813			4/30/2004	4984576 System	400.49				MED TAX		7.16	493.95
07139	9813			4/30/2004	4984576 System	400.49				OR WH		35.79	493.95
07139	9813			4/30/2004	4984576 System	400.49					OR SUI	12.84	493.95
07139	9813			4/30/2004	4984576 System	400.49					WCER	32.00	
07139	9813			5/14/2004	5018690 System	425.01	REG	74.24	527.10	FED TAX	WC-OR	1.34	527.10
07139	9813			5/14/2004	5018690 System	425.01				SOC TAX		32.68	
07139	9813			5/14/2004	5018690 System	425.01				MED TAX		7.65	527.10
07139	9813			5/14/2004	5018690 System	425.01				OR WH		4.22	527.10
07139	9813			5/14/2004	5018690 System	425.01					OR SUI	13.70	527.10
07139	9813			5/14/2004	5018690 System	425.01					WCER	34.15	
07139	9813			5/28/2004	5053179 System	432.87	REG	75.73	537.68	FED TAX	WC-OR	1.36	537.68
07139	9813			5/28/2004	5053179 System	432.87				SOC TAX		23.00	
07139	9813			5/28/2004	5053179 System	432.87				MED TAX		33.33	537.68
07139	9813			5/28/2004	5053179 System	432.87				OR WH		7.79	537.68
07139	9813			5/28/2004	5053179 System	432.87					OR SUI	4.30	537.68
07139	9813			5/28/2004	5053179 System	432.87					WCER	13.98	537.68
07139	9813			5/28/2004	5053179 System	432.87					WCER	34.84	
07139	9813			6/11/2004	5087028 System	475.76	REG	70.76	516.55	FED TAX	WC-OR	1.27	516.55
07139	9813			6/11/2004	5087028 System	475.76				SOC TAX		32.03	
07139	9813			6/11/2004	5087028 System	475.76				MED TAX		7.49	516.55
07139	9813			6/11/2004	5087028 System	475.76				OR WH		32.03	516.55
07139	9813			6/11/2004	5087028 System	475.76					OR SUI	13.43	516.55
07139	9813			6/11/2004	5087028 System	475.76					WCER	32.55	
07139	9813			6/25/2004	5120650 System	492.14	REG	74.20	541.66	FED TAX	WC-OR	1.34	541.66
07139	9813			6/25/2004	5120650 System	492.14				SOC TAX	SFC	6.74	541.66
07139	9813			6/25/2004	5120650 System	492.14				MED TAX		7.86	541.66
07139	9813			6/25/2004	5120650 System	492.14				OR WH		3.45	541.66
07139	9813			6/25/2004	5120650 System	492.14					OR SUI	14.08	541.66
07139	9813			6/25/2004	5120650 System	492.14					WCER	34.13	
07139	9813			7/9/2004	5153922 System	480.59	REG	72.48	529.10	FED TAX	WC-OR	1.30	529.10
07139	9813			7/9/2004	5153922 System	480.59				SOC TAX	SFC	6.74	529.10
07139	9813			7/9/2004	5153922 System	480.59				MED TAX		7.67	529.10
07139	9813			7/9/2004	5153922 System	480.59				OR WH		32.80	529.10
071													

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IN THE US DISTRICT COURT
FOR THE DISTRICT OF OREGON

GESSELE, et al.,

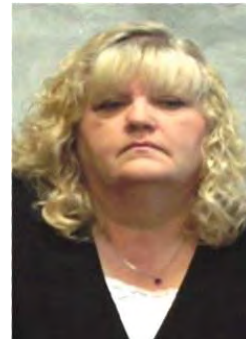
Plaintiffs,

Vs.

Case No. 3:10-CV-060-ST

JACK IN THE BOX,

Defendant.



DEPOSITION OF DONNA BASHAM
TAKEN IN BEHALF OF THE PLAINTIFF
MONDAY, JANUARY 30, 2012

1 A. They do the hiring.

2 Q. Okay. And do they also decide what level

3 -- what pay level that person will start at?

4 A. Anything above minimum has to -- has to go

5 through the area coach.

6 Q. So every -- the default is everybody

7 starts at minimum wage and then if you want to start

8 them higher you have to get permission from the area

9 coach?

10 A. Correct.

11 Q. Okay.

12 A. And if the area coach is not available,

13 then they would call the -- the office and talk to

14 HR.

15 Q. Was that common?

16 A. To call HR?

17 Q. Well, to -- to start someone at higher

18 than minimum wage?

19 A. No.

20 Q. Were there any levels of employee besides

21 just crew level?

22 A. Yes.

23 Q. And what was the next level up?

24 A. Team leader.

25 Q. Was that considered a manager position?

1 has got a paid lunch.

2 Q. Is that something that the manager has to
3 tell payroll or --

4 A. No.

5 Q. -- payroll just figures that out based on
6 what the rules are in the computer?

7 A. We never wrote anything, so I -- I'm --
8 they had to know.

9 Q. When you first started at Jack In The Box,
10 was there any requirement that employees wear a
11 certain brand of shoes?

12 A. Not in the very beginning. It was just
13 slip resistant.

14 Q. And when did that change?

15 A. Exact time frame, I don't remember what it
16 -- it did change.

17 Q. And what did it change to?

18 A. Shoes For Crews.

19 Q. They were required to wear a specific
20 brand of shoes?

21 A. Correct.

22 Q. Shoes For Crews is the company that makes
23 that brand of shoes?

24 A. Correct.

25 Q. What was your position at that time that

1 that change happened?

2 A. Had to be area coach because I was area
3 coach after 2000.

4 Q. Okay. So it was after 2000 that that
5 happened?

6 A. I think so. It could have been in '99,
7 but I always wore Shoes For Crews. I -- you know, I
8 just remember that it went from slip resistant to
9 Shoes For Crews.

10 Q. And how did corporate let you know that
11 was going to be the change?

12 A. Our regional vice president told us.

13 Q. Was there a meeting or something?

14 A. We had a region meeting.

15 Q. Do -- are those regular or was this called
16 just for that reason?

17 A. We have them every month.

18 Q. Every month the area coaches meet with the
19 regional vice president?

20 A. Uh-huh.

21 Q. Is that live or over the phone?

22 A. Live.

23 Q. Where -- where did that meeting take
24 place?

25 A. At the Portland office.

1 Q. Where is that in Portland?

2 A. Just -- one used to be on -- they had --
3 they had -- they had three different offices. They
4 had Lake Oswego. They had -- the other two were in
5 Portland.

6 Q. And what did the vice president tell you
7 about that transition?

8 A. That the company was going with Shoes For
9 Crews as the official shoe.

10 Q. And did he say why?

11 A. Oh, gee, why? Yeah, I don't remember the
12 exact verbiage. Just that that was the decision
13 made.

14 Q. Was -- was there a program at the
15 beginning where employees had to buy those shoes
16 themselves or were those ever provided by the
17 company?

18 A. We always bought our own shoes.

19 Q. And was there a payroll deduction program
20 in the beginning or was that --

21 A. No. They had that. There was a payroll
22 deduction plan.

23 Q. Where people would choose what shoes they
24 wanted and then that would be paid for out of their
25 paycheck?

1 they got a discount on their shoes.

2 Q. And is there shipping associated with
3 that?

4 A. I believe so. I'm not exactly sure.

5 Q. Was -- was that paid by the employee, as
6 well?

7 A. It was all in the price of the shoes.

8 Q. Okay. And did that all come out of one
9 paycheck?

10 A. They had a choice of one check or two
11 checks. I believe if they bought real expensive
12 shoes they could maybe do a third. I'm not sure on
13 that.

14 Q. And who would check to make sure that all
15 the employees wore Shoes For Crews?

16 A. The manager.

17 Q. Is that part of the manager's duties to
18 make sure that everybody --

19 A. And we kept -- we had -- well, we had shoe
20 guards too that if someone didn't have them on, had
21 Shoes For Crews like they -- they couldn't -- they
22 didn't -- you know, when they're first starting they
23 don't have the option so we gave them shoe guards to
24 wear.

25 Q. And those could be slipped on over regular

1 shoes?

2 A. Correct.

3 Q. Were they told that eventually they have
4 to buy the Shoes For Crews?

5 A. Yeah. So that when the next new person
6 was hired they could have the guards.

7 Q. I see. So they can't just wear the shoe
8 guards forever?

9 A. They're not supposed to but if -- if you
10 hired -- if they hired somebody that was really --
11 couldn't do it, they would let them wear them until
12 they could really do the other.

13 Q. Did they ever have any other brand of
14 shoes that you could buy, or was it always Shoes For
15 Crews?

16 A. The year I left they were talking about
17 adding Sketchers. I don't know if that -- I think
18 that happened but I was not there when that
19 happened.

20 Q. Did anyone during inspections ever ask or
21 ever check to see if people were wearing Shoes For
22 Crews?

23 A. Yes.

24 Q. Is that part of your score on the
25 inspection?

1 company.

2 Q. That's a separate department?

3 A. Uh-huh.

4 Q. And do they handle, like, Workers' Comp
5 claims, as well?

6 A. No, that's through HR.

7 Q. Do you know whether Shoes For Crews had
8 any deal with Jack In The Box where they would pay
9 for slip-and-fall injuries?

10 A. I -- not just Jack In The Box. Shoes For
11 Crews had an insurance policy that anybody that uses
12 their shoes.

13 Q. Is that why they would go through Asset
14 Protection? Would they handle that part of it?

15 A. No. They would just -- you know, normally
16 it was -- normally HR, but then if there was a --
17 suspicious of something, like they said they fell --
18 fell in the -- the kitchen but nobody in the kitchen
19 said they did fall, that's when they would get
20 involved.

21 Q. Okay. Fraud and those sorts of --

22 A. Uh-huh.

23 Q. How about uniforms? Were employees
24 required to wear a uniform?

25 A. Yes.

1 Q. And what was that uniform?

2 A. Hat, shirt, pants and shoes.

3 Q. Were they provided with any of that
4 uniform?

5 A. They got the hat and the shirt, and at the
6 time they could wear any jeans, and then they'd buy
7 their shoes. Hat, shirt, name tag and apron was
8 provided.

9 Q. And did they have -- they didn't have to
10 buy those?

11 A. Nope.

12 Q. What would happen if they needed a
13 replacement?

14 A. Manager would give them one. People that
15 -- yeah, they just gave it to them.

16 Q. Is that also the case at franchise stores,
17 or is that up to each franchise?

18 A. I don't know what other franchises are
19 doing. I know what we do.

20 Q. Okay. And let -- let me just take a
21 moment now to kind of explore the relationship,
22 because what I'm trying to figure out is which of
23 these requirements are part of being in the Jack In
24 The Box system that would apply no matter whether
25 you're corporate-owned or franchise-owned.

1 **Crews --**

2 A. Uh-huh.

3 **Q. -- and taxes, I assume --**

4 A. Uh-huh.

5 **Q. -- would come out of everybody's paycheck.**

6 Do you know of anything else that would
7 come out of their paychecks?

8 A. If they got a garnishment.

9 **Q. Anything else?**

10 A. Child support orders.

11 **Q. All right.**

12 A. Something they know about.

13 **Q. Would those get sent to the manager or do**
14 **those --**

15 A. They're sent to HR, and HR and the payroll
16 department take care of that. The manager doesn't
17 ever know about any of that.

18 **Q. How about uniforms? Do employees ever pay**
19 **for uniforms?**

20 A. They had to buy their own pants and they
21 had to buy their shoes. That was it.

22 **Q. But that doesn't come out of their**
23 **paycheck except for the shoes?**

24 A. No. Just the shoes.

25 **Q. All right. If they break something or**

1 A. Yes.

2 Q. Or a 15?

3 A. If they went on lunch for that amount of
4 time, yes.

5 Q. So anything less than 30 is supposed to be
6 paid, is that --

7 A. No, that's not what I'm saying.

8 Q. Oh.

9 A. My -- what I understood the question is if
10 they took only a 25-minute lunch --

11 Q. Right.

12 A. -- was that unpaid.

13 Q. No.

14 A. No, they don't -- no, they did not go back
15 and say you only worked 18 minutes so you get paid
16 for it, no.

17 Q. Okay.

18 A. If you worked under 19, it was paid.

19 Q. All right.

20 A. That's just how the computers were set up.

21 Q. I see. So the computers were set up so
22 that if you took a 25-minute lunch that was unpaid.

23 A. Correct.

24 Q. But an 18-minute lunch would have been
25 paid?

1 A. Correct.

2 Q. Okay. So and that 20 was the -- was the
3 line?

4 A. In the very beginning. It could have
5 changed. But that's what I remember.

6 Q. You don't know that it changed. You just
7 don't know whether it changed or not after that?

8 A. No.

9 Q. I'd like to ask you some questions about
10 the on-boarding process, which is, from what I
11 understand, what Jack In The Box calls it when a new
12 employee begins and receives their training and
13 fills out the paperwork and things that happen at
14 the beginning of their employment.

15 Is that what they call it?

16 A. Uh-huh.

17 Q. And, again, I'm talking about the
18 corporate stores here.

19 What kind of paperwork does an employee
20 have to fill out on their -- let's say on their
21 first day or once they're hired?

22 A. They have to fill out W-4 information and
23 an I-9 form.

24 Q. Anything else?

25 A. I think -- I think those are the two main

1 CERTIFICATE OF VIDEOGRAPHER

2
3 I the undersigned, Scott Gibson, am a videographer on
4 behalf of the NAEGELI REPORTING CORPORATION. I do hereby
5 certify that I have accurately made the video recording of
6 the deposition of Donna Basham, in the above captioned
7 matter on the 30th day of January, 2012, taken at the
8 location of 121 SW Morrison, Suite 900, Portland, OR
9 consisting of 1 DVD(s).

10
11 No alterations, additions or deletions were made
12 thereto.

13
14 I further certify that I am not related to any of the
15 parties in the action and have no financial interest in
16 outcome of this matter.

17
18
19 Scott Gibson

20 Videographer

21
22
23 1/30/2012

24 Date
25

1 CERTIFICATE

2
3 I, Mary T. Jacks, do hereby certify that pursuant to
4 the Rules of Civil Procedure, the witness named herein
5 appeared before me at the time and place set forth in the
6 caption herein; that at the said time and place, I
7 in stenotype all testimony adduced and other oral
8 proceedings had in the foregoing matter; and that the
9 foregoing transcript pages constitute a full, true and
10 correct record of such testimony adduced and oral
11 had and of the whole thereof.

12
13 IN WITNESS HEREOF, I have hereunto set my hand this
14 6th day of February, 2012.

15
16
17
18
19
20
21 /S/ Mary T. Jacks

22
23 Commission Expiration: October 15, 2014
24
25

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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

JESSICA GESSELE, ASHLEY GESSELE,
NICOLE GESSELE, TRICIA TETRAULT,
and CHRISTINA LUCHAU on behalf
of themselves and all others
similarly situated,

Plaintiffs,

Vs.

Civil No.:
3:10-cv-960-ST

JACK IN THE BOX INC., a
corporation of Delaware,

Defendant.



VIDEOTAPE DEPOSITION OF GENE JAMES
TAKEN ON BEHALF OF THE PLAINTIFFS
MONDAY, FEBRUARY 6, 2012

1 **friction?**

2 A. That would be correct.

3 **Q. Is that testing done by Jack In The Box?**

4 A. No.

5 **Q. Who is the testing done by?**

6 A. We went to an independent laboratory

7 called Precision Laboratories in Nashville,

8 Tennessee, and we funded the laboratory -- we -- we

9 -- we funded the test at the laboratory of a number

10 of different shoes almost 10 years ago. We then did

11 it again I think about a year ago, maybe a year-and-

12 a-half ago, where we brought in shoes from -- from

13 K-Mart shoes, from Sears, different -- different

14 shoes to -- to establish that they had an acceptable

15 level of coefficient of friction.

16 **Q. What is the acceptable level of**
17 **coefficient of friction?**

18 A. 0.5.

19 **Q. Do all of the shoes currently approved for**
20 **wear by employees in Jack In The Box restaurants**
21 **exceed 0.5?**

22 A. Yes.

23 **Q. Is the coefficient of friction affected by**
24 **wear?**

25 A. It would be.

1 of the risk management manual, how would you go
2 about doing that?

3 A. I would probably come to me first. I
4 would go to risk management, the -- and then HR
5 training, and operations.

6 Q. Okay.

7 A. I do not have one from that -- from those
8 days.

9 Q. Is there a separate asset protection
10 manual, or are the asset protection policies
11 contained within the risk management materials?

12 A. There's not a separate asset protection
13 management manual. Everything's contained within
14 risk management manual.

15 Q. And when did the -- when was the first
16 shoe policy that you are aware of -- became aware of
17 since you started at Jack In The Box?

18 A. We would have developed it in 2002 for a
19 roll-out in January of 2003.

20 Q. You say you developed it. Who was
21 involved in that?

22 A. Over a period of four, five, six months, a
23 prolonged period, we convened what we called our
24 safety symposium, and we brought in representatives
25 from across the company, from operations from

1 different parts of the country, from distribution,
2 HR, training. We probably had anywhere from 15 to
3 20 people involved at any one time, and the group
4 would contract or expand as -- as needed as we met.
5 We probably met four times over -- over about four
6 or five months. And the object of the exercise was
7 not to plan in a vacuum, to involve all aspects of
8 the company in the -- in what we then called the new
9 -- new safety program.

10 And at the end of -- at the end of the
11 process is when we came up with what we called our
12 new safety program, with a slip-resistant shoe
13 program being probably the cornerstone of our safety
14 program.

15 **Q. What other stones besides the cornerstone**
16 **were there in the safety program?**

17 A. There was a requirement for manage -- for
18 area managers to report lost-time claims and to --
19 to investigate them, basically do a postmortem on --
20 on claims to find out what the causal factors were.
21 There was the requirement to have a -- a slip-
22 resistant -- excuse me, a -- a mop for -- a mop and
23 a bucket for the back of the restaurant, and a mop
24 and a bucket for the front of the restaurant so we
25 weren't bringing contaminated water from the -- the

1 average street shoe or a sneaker?

2 A. I would -- I don't know. I'd have to do
3 that research.

4 Q. How was it determined that the minimum co-
5 friction -- coefficient of friction -- excuse me --
6 would be 0.5 for Jack In The Box's non-slip shoes?

7 A. There's a -- there's a -- there's a Dr.
8 Brungrocker (phonetic), who is the world's expert on
9 slip-resistant shoes and coefficients. And -- and
10 actually, it derived from a -- a phone conversation
11 I had with him -- a phone interview I had with him
12 back in 2002.

13 Q. He said that that was a good minimum?

14 A. Yes. I would also point out that we -- in
15 2000 -- in 2001 going into 2002, Jack In The Box had
16 an injury frequency rate of 8.7, which was about 25
17 percent above the industry average. And if you
18 would review the data, you would see that once we
19 executed our slip-resistant shoe program, our
20 injury-frequency rate went down into the low 3s,
21 high 2s, and from time to time was even in the low
22 2s. So I think we have some pretty good data that
23 our shoe program was quite effective.

24 Q. 8.7 what?

25 A. Injury-frequency rate.

1 purchase Shoes for Crews, that they can't wear the
2 shoe guards forever?

3 A. It's not the intent of the policy or the
4 program that we developed.

5 Q. Okay. But you don't know whether that's
6 done or not?

7 A. I can't be accountable for what a thousand
8 restaurant managers say or do.

9 Q. Okay. When you had the Precision Lab
10 study funded 10 years ago, or almost 10 years ago,
11 the first time you did it...

12 A. Um-hum.

13 Q. Who -- what were the brands that passed?

14 A. I would have to go back -- oh, certainly
15 Shoes for Crews passed, certainly Footstar passed.
16 We didn't know of Keuka at the time. Keuka was
17 tested later. There were other brands there, and I
18 couldn't begin to tell you which ones passed and
19 didn't pass.

20 Q. Were there any that passed that were not
21 added to the list of approved shoes?

22 A. I'm sure there -- there were.

23 Q. Why?

24 A. Because -- they passed because they
25 probably were built in a certain way that -- that

1 achieved the coefficient of friction that we were
2 looking for.

3 Q. I'm sorry. Maybe my question was
4 confusing. Were there any shoes that passed that had
5 a high enough coefficient of friction but that
6 nevertheless were not approved for restaurant wear?

7 A. I'm sure there were.

8 Q. And I'm asking why would -- why would that
9 decision have been made if they -- if they passed at
10 the end -- at the Precision Laboratories test?

11 A. Possibly cost, possibly the -- how the
12 product looked, what -- what we perceived as the
13 quality of the product, or what we thought the --
14 the quality of the service would be. This goes back
15 10 years ago, so I'm -- I would only be guessing at
16 this point.

17 Q. Well, I don't want you to guess. But if
18 you have an estimate based on your recollection,
19 then we -- I want to know what you know and -- and
20 what you've been prepared to answer --

21 A. Yeah.

22 Q. -- on behalf of the company, so...

23 MR. PARKER: Well, I'm going to object. I
24 don't know what an estimate based on recollection
25 is. Sounds like a guess to me.

1 claim to Shoes for Crews.

2 Q. Do you know if that's done electronically,
3 or by telephone, or...

4 A. I do not know how that's done.

5 Q. We talked at the beginning about what you
6 had done to prepare for the deposition. You said
7 that you looked at the amounts of rebates from Shoes
8 for Crews?

9 A. Um-hum, yes.

10 Q. What was that?

11 A. The amount of rebates from Shoes for Crews
12 since 2003 is \$1,052,000.

13 Q. And what does that mean, "rebates"?

14 A. It means basically for every pair of shoes
15 that were sold to a Jack In The Box employee, Jack
16 In The Box receives a \$2 rebate from Shoes for
17 Crews.

18 Q. Rebate from what?

19 A. From -- receives a \$2 payment.

20 Q. So does that mean that there were
21 approximately 500,000 pairs of shoes sold since
22 2003?

23 A. That would be the rough math.

24 Q. Okay. Tell me about the indemnity
25 payments from Shoes for Crews.

1 A. Since 2004 -- excuse me. Since 2007,
2 there has been \$295,000 in indemnity payments.
3 There were indemnity payments prior to that, but we
4 cannot reconstruct that data at this time.

5 Q. And how about write-offs from Shoes for
6 Crews?

7 A. Jack In The Box has written off, since
8 2004, \$1.76 million. It's \$1.76 million.

9 Q. In -- in what?

10 A. In shoes that we paid for that we were not
11 able to recoup from our payroll deduction program.
12 Employee left, and we were unable to continue to
13 deduct from his paycheck for those shoes.

14 Q. Okay. We take breaks from time to time
15 just so everyone can stay fresh. So why don't we
16 take a break now, and we'll come back and continue
17 with the questions.

18 A. How long? Five minutes?

19 Q. As long as you need, yeah.

20 A. I'll only need five minutes.

21 THE VIDEOGRAPHER: Going off record. The
22 time is 9:55 a.m.

23 (Whereupon, there was a short recess
24 taken.)

25 THE VIDEOGRAPHER: Going back on the

1 record. The time is 10:08 a.m.

2 BY MR. EGAN:

3 Q. Before the break we were talking about one
4 of the statistics that you looked up in preparation
5 for this deposition was the amount of rebates from
6 Shoes for Crews. You said that Jack In The Box
7 receives a \$2 rebate for every pair of shoes that's
8 sold. Does that apply to the crew guards as well,
9 or just the shoes?

10 A. No, just the shoes.

11 Q. Does it apply only to shoes that are
12 purchased through payroll deduction, or any -- in
13 any way?

14 A. Payroll deduction.

15 Q. Okay. And what happens to that money?
16 Does that get refunded to the stores, or what
17 happens to it?

18 A. It comes back to -- to CSC. It does not
19 cascade back to the stores.

20 Q. And I believe you also said that the crew
21 guards are -- first you said they were -- they were
22 purchased by the company, and then you said that
23 they're stocked at the distribution center. Is --
24 is there some sort of consignment arrangement, or
25 does Jack In The Box have to purchase them before

1 they're stocked there?

2 A. No. The -- the distribution centers would
3 -- would get to a certain level in -- in crew
4 guards, and I'm not sure what that level would be.
5 But they would then order them as they deem
6 appropriate so they could fill the -- fill orders as
7 orders come in from restaurants.

8 Q. But does Shoes for Crews charge you upon
9 delivery of the shoe guards, or do they only charge
10 upon the -- their -- their final delivery to the
11 restaurant?

12 A. No, they -- they -- they -- they charge
13 upon delivery to Jack In The Box.

14 Q. So Jack In The Box pays Shoes for Crews
15 directly and then charges that, "cascaded down," I
16 think was your term, to the restaurant when they're
17 actually delivered?

18 A. That's correct.

19 Q. Okay.

20 A. Yeah. There would be a charge for those.

21 Q. All right. Do any of the other shoe
22 manufacturers provide similar rebates to Jack In The
23 Box?

24 A. Every -- every manufacturer we've dealt
25 with, with the exception of -- of -- of -- with the

1 exception of Sketchers, has provided a -- a -- a
2 similar rebate.

3 Q. Are they --

4 A. An identical rebate, I should say.

5 Q. Has that been true since the beginning of
6 the safety program?

7 A. Yes.

8 Q. At the beginning, how would employees --
9 excuse me. At the beginning of the safety program,
10 how would employees go about ordering a pair of
11 Shoes for Crews?

12 A. They could call Shoes for Crews.

13 Q. And what would -- would they have to give
14 their employee number, or can anybody off the street
15 just call?

16 A. No, they would call and give their
17 employee number.

18 Q. Okay. And has that method changed now?
19 Do they still have to call, or can they do that
20 online?

21 A. The -- they still call. We're working on
22 an -- on an online program.

23 Q. All right. When they call, is there any
24 kind of form they have to sign that...

25 A. Yes.

1 region and provide that -- that PowerPoint
2 presentation.

3 Q. And did Paul Schultz approve that safety
4 program?

5 A. Yes.

6 Q. Did he have to get approval from the board
7 of directors for that?

8 A. No.

9 Q. Do you ever make -- report directly to the
10 board of directors?

11 A. I never have.

12 Q. All right. Did Mr. Schultz also approve
13 the portion of the program where employees could pay
14 for the shoes through payroll deductions?

15 A. I'm not sure he would have had to have
16 done that considering it was already in place. But
17 what he did approve was taking the payroll deduction
18 from three deductions -- from three pay periods to
19 four pay periods, which -- the reason why that was
20 important, it significantly increased our exposure
21 to write-offs.

22 Q. Oh, that's why you had to have his
23 approval for that? Or what do you mean by was it
24 important?

25 A. Yes, because it -- it was an important

1 part of -- of the program to lessen -- we wanted to
2 lessen -- we wanted to lessen the burden on our
3 employees on a paycheck-by-paycheck period if they
4 ordered the shoes; but at the same time with a 230
5 or 40 percent turnover rate with company employees,
6 certainly extending our payroll deduction out
7 another two weeks was going to significantly
8 increase our write-offs. So yeah, it was a
9 discussion that we had to have with Paul Schultz,
10 the president of the company.

11 Q. Earlier you said that Shoes for Crews, one
12 of their caveats for indemnifying Jack In The Box is
13 that the shoes be less than six months old; is that
14 right?

15 A. That's correct.

16 Q. Is there any -- does Jack In The Box keep
17 track of how old any particular employee's shoes
18 are, or how -- how long ago it was that they ordered
19 them?

20 A. We do not.

21 Q. Okay. And how about the crew guards? Is
22 there any time limitation on them for -- for
23 indemnification?

24 A. No.

25 Q. Does Jack In The Box carry Workers'

1 **Compensation insurance?**

2 A. I -- I would not be the person most
3 knowledgeable on what our -- on how we structure our
4 risk management program.

5 **Q. Okay. Who would be that person?**

6 **MR. PARKER:** I think Ray Pepper was the
7 person designated for that.

8 **BY MR. EGAN:**

9 **Q. Would you agree with that?**

10 A. I would agree with that.

11 **Q. Okay. If an employee quits or is**
12 **terminated before they have paid for their shoes**
13 **with the four payroll deductions, does Jack In The**
14 **Box get charged that amount by Shoes for Crews? Or**
15 **how -- how does that work?**

16 A. What occurs in -- in all likelihood, we
17 have already paid an invoice for those shoes. We
18 get invoiced on a regular basis from Shoes for Crews
19 for the -- for the shoes that our employees order
20 through the payroll deduction program. So in all
21 likelihood, we've -- we've either already paid that
22 invoice, or we're about to pay that invoice.

23 **Q. Okay. So -- so Jack In The Box pays for**
24 **the shoes right away?**

25 A. Exactly.

1 Q. And then recoups that payment from the
2 payroll deductions?

3 A. Yes.

4 Q. And if an employee doesn't stay long
5 enough for Jack In The Box to recoup the whole
6 payment, is that amount charged back to the store,
7 or does it just remain here at CSC?

8 A. Remains here at CSC.

9 Q. Okay. Tell me about how stores are
10 inspected for safety issues, how often that happens,
11 and what's involved with that.

12 A. The -- at the beginning of this -- of this
13 program, there was a QFC process.

14 Q. What does that stand for?

15 A. Quality food cleanliness. And there
16 actually was a -- there actually was a section of --
17 of that QFC that had to do with safety, and at the
18 time there were eight or nine safety questions. But
19 the one thing that would fail the store would be
20 employees -- having just one employee that didn't
21 have approved footwear.

22 Q. One employee would fail the store?

23 A. One employee without the approved footwear
24 could fail the store on the safety component of the
25 QFC. There was also the -- the conventional part of

1 A. I am.

2 Q. Okay.

3 MR. STUBBLEFIELD: Ask him where.

4 BY MR. EGAN:

5 Q. Okay. I'm going to now have to turn to
6 Bates page 1331. It's in another volume that we'll
7 get for you.

8 A. Okay.

9 Q. So this is a document that I think we got
10 from the training department. It lists which of the
11 computer-based training sessions have to be
12 accomplished by which level of -- which employee.
13 But I just wanted to ask you in general, the safety
14 program that we're talking about and the changes
15 that have been made to that over time, those
16 requirements have been implemented by being passed
17 down through the management chain and having them
18 trained in the corporate methods; is that right?

19 A. Yes.

20 Q. None of -- none of the shoe policies that
21 we've talked about differ from region to region or
22 from district to district or anything like that?

23 A. We -- we sent out a policy, a procedure, a
24 program, and I can't really attest to how an
25 individual manager or an area manager might add

1 something or delete something.

2 Q. But they're not supposed to?

3 A. They are not supposed to.

4 Q. Because they're intended to be companywide
5 policies and procedures?

6 A. Companywide policies and procedures.

7 Q. All right. If you'd flip now to Bates
8 page 1764. Actually, that may be in the next one.

9 A. Okay.

10 Q. So this is Jack's safety program --

11 MR. PARKER: Can you wait for me?

12 MR. EGAN: Oh, sure, yeah. 1764.

13 MR. PARKER: 17 what?

14 MR. EGAN: 64.

15 BY MR. EGAN:

16 Q. All right. So as we were discussing, this
17 is Jack's safety program. This is the -- what's the
18 -- as far as I understand, this is part of the
19 training that's given to restaurant managers to tell
20 them about the safety program; is that right?

21 A. That would be correct.

22 Q. Okay. And so did you have any input into
23 the development of this training program or this
24 document?

25 A. Indirectly. I had Dave Parham serve on --

1 program has made that not to be the case anymore?

2 A. That's exactly the case.

3 Q. Do you have any idea how much slip-and-
4 fall injuries were costing the company in terms of
5 dollars before we implemented this program?

6 A. If you look at the 2002 numbers of -- of --
7 -- of \$9,000,000, what -- what I will tell you is the
8 slip and falls accounted for more than 30 percent of
9 -- of all claims, and slip and falls had a
10 disproportionately high -- higher cost than all
11 claims. So doing some triangulation of numbers, you
12 could -- you could come up with a big number there.

13 Q. In excess of \$3,000,000?

14 A. I would say so, yes.

15 Q. And if -- if you had to estimate how much
16 the mandatory shoe program is -- is saving the
17 company every year, could -- could you come up with
18 some sort of number?

19 A. Not sitting here right now.

20 Q. Okay. I've got a checklist of documents
21 to discuss, and some of the topics we have already
22 covered in other discussions. So please forgive me
23 while I page through here.

24 One question that I did have for you that
25 doesn't involve any particular page is, I came

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4 behalf of the NAEGELI REPORTING CORPORATION. I do hereby
5 certify that I have accurately made the video recording of
6 the deposition of Gene James, in the above captioned
7 on the 6th day of February, 2012, taken at the location of
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11 No alterations, additions or deletions were made
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14 I further certify that I am not related to any of the
15 parties in the action and have no financial interest in
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17
18
19 Jamie Carlson

20 Videographer

21
22
23 2/6/2012

24 Date

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3 I, Leo Kniebel, do hereby certify that pursuant to
4 Rules of Civil Procedure, the witness named herein
5 before me at the time and place set forth in the caption
6 herein; that at the said time and place, I reported in
7 stenotype all testimony adduced and other oral proceedings
8 had in the foregoing matter; and that the foregoing
9 transcript pages constitute a full, true and correct
10 of such testimony adduced and oral proceeding had and of
11 whole thereof.

12
13 IN WITNESS HEREOF, I have hereunto set my hand this
14 16th day of February, 2012.

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21 /S/ Leo Kniebel

22
23 Commission Expiration: March 2, 2012
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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

JESSICA GESSELE, ASHLEY GESSELE,
NICOLE GESSELE, TRICIA TETRAULT,
and CHRISTINA LUCHAU on behalf
of themselves and all others
similarly situated,

Plaintiffs,

Vs.

Civil No.:
3:10-cv-960-ST

JACK IN THE BOX INC., a
corporation of Delaware,

Defendant.



VIDEOTAPE DEPOSITION OF SHELLY MOSTELLER
TAKEN ON BEHALF OF THE PLAINTIFFS
WEDNESDAY, FEBRUARY 8, 2012

1 A. Okay.

2 Q. If I say turn to Bates page 242, it'll --
3 it'll be the same. It'll be a 1 with a bunch of
4 zeros, but 242, that last part is what I'm going to
5 refer to them as.

6 A. Sure.

7 Q. So when we try to find them, that's what -
8 - that's what you can look at.

9 All right. So have you seen this document
10 before?

11 A. Yes.

12 Q. Okay. What is this document?

13 A. This is the dressing/grooming policy for
14 all the employees at the restaurant level.

15 Q. Was this issued during the time that you
16 were the uniform person?

17 A. Yes.

18 Q. All right.

19 A. Multiple times.

20 Q. Has it changed or...

21 A. As reminders, as well as some changes.

22 Like I said, the 2007 change of the uniform program,
23 and at one point there was a grooming change, I
24 think, where -- it was regarding hair. So you could
25 have different colored hair and you could have a

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8 location of 9330 Balboa Avenue, Corporate Headquarters,
9 Diego, CA 92123, consisting of 1 DVD(s).

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11 No alterations, additions or deletions were made
12 thereto.

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14 I further certify that I am not related to any of the
15 parties in the action and have no financial interest in
16 outcome of this matter.

17
18
19 Jamie Carlson

20 Videographer

21
22
23 2/8/2012

24 Date
25

1 CERTIFICATE

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3 I, Leo Kniebel, do hereby certify that pursuant to
4 Rules of Civil Procedure, the witness named herein
5 before me at the time and place set forth in the caption
6 herein; that at the said time and place, I reported in
7 stenotype all testimony adduced and other oral proceedings
8 had in the foregoing matter; and that the foregoing
9 transcript pages constitute a full, true and correct
10 of such testimony adduced and oral proceeding had and of
11 whole thereof.

12
13 IN WITNESS HEREOF, I have hereunto set my hand this
14 17th day of February, 2012.

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21 /S/ Leo Kniebel

22
23 Commission Expiration: March 2, 2012
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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

JESSICA GESSELE, ASHLEY GESSELE,
NICOLE GESSELE, TRICIA TETRAULT,
and CHRISTINA LUCHAU on behalf
of themselves and all others
similarly situated,

Plaintiffs,

Vs.

Civil No.:
3:10-cv-960-ST

JACK IN THE BOX INC., a
corporation of Delaware,

Defendant.



VIDEOTAPE DEPOSITION OF SUSAN PETTIJOHN
TAKEN ON BEHALF OF THE PLAINTIFFS
TUESDAY, FEBRUARY 7, 2012

1 franchisees under the system here in San Diego, or
2 do they do that on their own?

3 A. They're -- they're applied through the
4 system. They're called calc groups in Jack's
5 Timekeeping, and there are different calc groups
6 based on the different labor laws. And -- and yeah,
7 they -- that's what the systems run -- runs against.

8 Q. Okay. Can a manager -- or, excuse me.

9 Can a franchisee request that you calculate their
10 hours paid, let's say, based on different rules?

11 A. There are a couple of configuration
12 choices that they have. One would be to choose
13 their holidays, so whether their holidays are paid
14 or not; whether or not once they reach daily
15 overtime in California, they're paid at -- continue
16 to be paid at time-and-a-half or bumped into double
17 time, which is the company decision. And then there
18 are some automatic premiums that we apply for
19 company restaurants that they can choose to either
20 use or not use. Those would be the -- the only
21 choices they have regarding how the system would
22 calculate their employees' pay.

23 Q. Okay. So if I'm a franchise owner, I
24 can't say, "Jack In The Box, I want you to --
25 anything less than 30 minutes, I want you to count

1 as a paid break instead of the 20-minute default,"

2 that's not an option that's available to them?

3 A. No.

4 Q. Okay. Another question that Ms. Burtchett
5 punted to you was whether -- under the Kronos
6 system, did the Kronos software at the back-office
7 PC in each restaurant -- if a manager made changes
8 to the punches before the times were communicated to
9 San Diego to payroll, did those changes get sent
10 down here, or was only the final times get sent?

11 A. I am not an expert on the Kronos --

12 Q. Sure.

13 A. -- system. But my understanding as to how
14 it would work is, they would make changes that could
15 be polled from their system, but that they weren't
16 sent every pay period. At the end of the pay period
17 they did a process called mailing their timecards.
18 That took their final time. But I believe changes
19 to punches could be accessed via another way. But
20 again, that's not my --

21 Q. Training?

22 A. -- area of expertise. It's just my
23 understanding.

24 Q. And I appreciate that. I'm only asking
25 what you know. So if you do know, I -- I want to

1 testing. You -- you become familiar with looking at
2 slip-resistant shoes. There's a sole that you can
3 usually get a -- get a good idea from, but it's
4 difficult to instruct them on how to figure that
5 out, so we work with them when the need comes up.

6 **Q. Okay. How about in terms of assessing**
7 **whether a given pair of shoes might be too worn to**
8 **be very slip resistant anymore? Is that something**
9 **that the managers are expected to look at or**
10 **evaluate?**

11 **A. I've never seen anything -- any**
12 **instructions to -- to that.**

13 **Q. Okay. How about if the shoes are just**
14 **ratty looking? Is that something that they would be**
15 **asked to --**

16 **A. Yeah. We ask -- they need to look clean**
17 **and neat and presentable. That's in the**
18 **dressing/grooming policy. So I would think that**
19 **would fall under that criteria.**

20 **Q. Okay. You were in the company when the**
21 **switch was made to have mandatory slip-resistant**
22 **shoes or shoe guards for all of the employees. Were**
23 **you aware of that policy as it was being**
24 **implemented? Were you part of that?**

25 **A. I was aware of it, but I was not part of**

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5 certify that I have accurately made the video recording of
6 the deposition of Susan PettiJohn, in the above captioned
7 matter on the 7th day of February, 2012, taken at the
8 location of 9330 Balboa Ave, San Diego, CA 92123,
9 of 1 DVD(s).

10

11 No alterations, additions or deletions were made
12 thereto.

13

14 I further certify that I am not related to any of the
15 parties in the action and have no financial interest in
16 outcome of this matter.

17

18

19 Jamie Carison

20 Videographer

21

22

23 2/7/2012

24 Date

25

1 CERTIFICATE

2
3 I, Leo Kniebel, do hereby certify that pursuant to
4 Rules of Civil Procedure, the witness named herein
5 before me at the time and place set forth in the caption
6 herein; that at the said time and place, I reported in
7 stenotype all testimony adduced and other oral proceedings
8 had in the foregoing matter; and that the foregoing
9 transcript pages constitute a full, true and correct
10 of such testimony adduced and oral proceeding had and of
11 whole thereof.

12
13 IN WITNESS HEREOF, I have hereunto set my hand this
14 17th day of February, 2012.

15
16
17
18
19
20
21 /S/ Leo Kniebel

22
23 Commission Expiration: March 2, 2012
24
25

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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

JESSICA GESSELE, ASHLEY GESSELE,
NICOLE GESSELE, TRICIA TETRAULT,
and CHRISTINA LUCHAU on behalf
of themselves and all others
similarly situated,

Plaintiffs,

Vs.

Civil No.:
3:10-cv-960-ST

JACK IN THE BOX INC., a
corporation of Delaware,

Defendant.



VIDEOTAPE DEPOSITION OF LEANNE TELLEZ
TAKEN ON BEHALF OF THE PLAINTIFFS
FRIDAY, FEBRUARY 10, 2012

1 A. Yes.

2 Q. Okay. And is there something in there
3 that says that it -- that shipping and handling is
4 included?

5 A. Yes.

6 Q. And is there any kind of rebate or
7 reduction or deduction in those that you can see in
8 Lawson?

9 A. No.

10 Q. Okay. Because we've had some people
11 testify that an arrangement that each of the shoe
12 manufacturers has had with the company is that they
13 will provide a rebate of \$2 to the company for every
14 pair of shoes that an employee purchases through a
15 payroll deduction?

16 A. Yes.

17 Q. Okay. And -- but that doesn't go back to
18 the employee, that just stays within the company?

19 A. Correct.

20 Q. At some point I understand there to have
21 been a team assembled or a project initiated for
22 online ordering for Shoes For Crews.

23 A. Okay.

24 Q. Were you a part of that or were you --

25 A. No.

1 CERTIFICATE OF VIDEOGRAPHER
2

3 I the undersigned, Jamie Carlson, am a videographer
4 behalf of the NAEGLI REPORTING CORPORATION. I do hereby
5 certify that I have accurately made the video recording of
6 the deposition of Leanne Tellez, in the above captioned
7 matter on the 10th day of February, 2012, taken at the
8 location of 9330 Balboa Avenue, Corporate Headquarters, CA
9 92123, consisting of 1 DVD(s).

10
11 No alterations, additions or deletions were made
12 thereto.

13
14 I further certify that I am not related to any of the
15 parties in the action and have no financial interest in
16 outcome of this matter.

17
18
19 Jamie Carlson

20 Videographer

21
22
23 2/10/2012

24 Date
25

1 CERTIFICATE

2
3 I, Lorie Rhyne, the certified Shorthand Reporter, in
4 and for the State of California, do hereby certify:

5
6 THAT the foregoing proceedings were reported by me
7 stenographically and later transcribed under my direction;
8 that the foregoing is a true record of the proceedings
9 at that time.

10
11 IN WITNESS HEREOF, I have transcribed my name this
12 day of February, 2012.

13
14
15
16
17
18
19 /S/ Lorie Rhyne

20 CSR No. 12905
21
22
23
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IN THE US DISTRICT COURT
FOR THE DISTRICT OF OREGON

GESSELE, et al.,

Plaintiffs,

Vs. Case No. 3:10-CV-060-ST

Jack In The Box,

Defendant.



DEPOSITION OF JEFFREY TENNANT
TAKEN IN BEHALF OF THE PLAINTIFF
TUESDAY, JANUARY 31, 2012

1 the restaurant, so those breaks are paid.

2 But breaks taken -- I believe it's from
3 11:00 to 4 o'clock in the morning are paid breaks
4 regardless if they're clocked in and out. The idea
5 is that the employee is supposed to clock-out for
6 those breaks and that they would need to clock back
7 in from their breaks if they were not able to take a
8 break.

9 Q. If they don't clock-out, is that break
10 just added in for recordkeeping purposes?

11 A. That is not the policy, no.

12 Q. So if a manager went back in to add 30-
13 minute meal periods to everyone who worked graveyard
14 during a --

15 A. Uh-huh.

16 Q. -- given time, that would be against the
17 policy?

18 A. That is against our policy, yes.

19 However, the employee would be paid,
20 though. They're just on a break. That would be an
21 administrative function.

22 Q. Right.

23 A. Not an actual -- where they're going to
24 get paid for the hours worked.

25 Q. And then so assuming -- and how -- how

1 often are the time punches reviewed by management to
2 make sure that they're correct?

3 A. Well, in order to reconcile the system
4 each day the system will produce an error if there's
5 an odd number of punches. When an employee clocks-
6 out, only does one punch in between and then another
7 break or something is wrong and that shoots out an
8 error report.

9 And then anytime that that error report is
10 -- anytime you -- anytime you make any changes to
11 the P.C. there's supposed to be written
12 documentation as well as far as that punch has been
13 changed.

14 So my -- myself as manager would write
15 down that I had to change Jeff's punch for lunch.
16 And then there's a form that we have as far as
17 whether we're adding or deleting it, what the reason
18 was. And then that employee is -- is required to
19 sign to acknowledge that that punch has been changed
20 for our recordkeeping as far as that way there's so
21 no dispute who got paid or why things were changed.

22 Q. And that's a physical piece of paper that
23 you write those changes on?

24 A. Correct.

25 Q. Where are those kept?

1 A. (Witness complied.)

2 Q. At the end of that first paragraph it
3 says, "The following are some of the actions which
4 are violations of restaurant policies and rules, and
5 which also may result in disciplinary action,
6 suspension or termination."

7 So these are --

8 A. Uh-huh.

9 Q. -- general conduct rules that they're
10 warning you ahead of time you can be disciplined
11 for?

12 A. Correct.

13 Q. Okay. And that little -- that little icon
14 in the upper right-hand corner of the page where it
15 says, "company," I notice on some of these pages
16 that little triangle says "system" on it. What
17 would be the difference between those two?

18 A. My understanding would be difference in
19 company and franchise. A lot of this same
20 information is provided to a franchise committee, as
21 well. And this would have been -- this particular
22 document was applied to the company operations.

23 Q. Only the company, not --

24 A. That's my understanding, yes. That's not
25 something that's in the system. That would be a --

1 Q. Okay.

2 A. Uh-huh.

3 Q. So, I mean, I can imagine things like
4 uniforms, Jack In The Box would want all of its
5 store to appear the same to the public so that the
6 public wouldn't know whether it was a franchise
7 store or a company store. And so that might be a
8 system-wide requirement. Whereas Jack In The Box,
9 Inc., the company, might have its own human
10 resources things or something that.

11 Is that --

12 A. That's my understanding, as well.

13 Q. All right. So let's look at general
14 conduct on this page number three. It says, "Not
15 cooperating with fellow employees or management or
16 insubordination, not following directions."

17 Does that mean that if an employee doesn't
18 follow the directions of their supervisor they could
19 be disciplined?

20 A. Yeah. I think in the title it says
21 general conduct, so maybe if we had anything that
22 was a violation of these, you want to investigate to
23 figure out the severity of it and determine what
24 course of action as far as some type of
25 documentation or whether it's actually a termination

1 this on the computer based training or is this on
2 the office computer?

3 A. No, it wouldn't have been computer based
4 training at this time. This would have been the
5 restaurant P.C.

6 Q. So new hires sat down at the restaurant
7 P.C. and they'd go through these policies and sign
8 them?

9 A. Correct.

10 Q. And I'd like to direct your attention now
11 to the on-duty meal policy down at the bottom.
12 Would you just read that for us for the record?

13 A. All right. As it says here on the
14 statement, "I hereby agree with my employer that on
15 those sporadic occasions where the nature of my work
16 prevents me from being relieved of all duties during
17 my required meal period, I shall be paid for those
18 meal periods. I may revoke this agreement in
19 writing at any time."

20 Q. Okay. Is that -- you understand that to
21 be the policy still?

22 A. Yeah. You would go back and clock on and
23 be paid.

24 Q. Okay. Do you know whether employees
25 received a copy of any of these agreements or

1 action record. Does that look right to you?

2 A. Uh-huh. Correct.

3 Q. The number is a little blurry in the upper
4 left-hand corner. Is that P108?

5 A. Yeah.

6 Q. Is that a form that was filled out when
7 employees received discipline?

8 A. Yeah, that -- that continues to be the
9 standard form today.

10 Q. Do they do that on the computer now?

11 A. This would still be handwritten.

12 Q. And are those kept at the restaurant level
13 or at corporate?

14 A. These would be kept at the restaurant
15 level to deal with restaurant employees. To deal
16 with the manager, the manager ones would be kept at
17 the corporate level.

18 Q. Let's look at page 311.

19 A. (Witness complied.)

20 Q. Bates page 311 is a similar new-hire
21 report to the one we saw before. It's another on-
22 duty meal policy signed by Nicole Gessele with a
23 different date.

24 Do employees do this every time they are
25 rehired?

1 A. Yeah. This was a new -- a new-hire
2 agreement.

3 Q. Okay. So if somebody works for Jack In
4 The Box and then leaves and comes back, they fill
5 out a new one of these agreements?

6 A. That would be my understanding.

7 Q. Okay. And this one is a little different
8 than the one before. It doesn't have the on-
9 boarding handbook acknowledgement. So these --
10 these may change over time, the things that are
11 included in here?

12 A. Well, it's likely we went to the computer
13 based training, replaced the employee handbook.

14 Q. I see. Okay. All right. Let's go to
15 321, Bates 321.

16 A. (Witness complied.)

17 Q. I see a name on the top of this page,
18 Shauna Kilpatrick. Do you know who that is?

19 A. Uh-huh. Previous area coach.

20 Q. For this area?

21 A. Worked in this area, yes.

22 Q. Do you know if she is still employed by
23 Jack In The Box?

24 A. No, she's not.

25 Q. Do you know where she lives?

1 can --

2 Q. With a touch screen?

3 A. Yeah, touch screen.

4 Q. Go to 679, if you would, Bates page 679.

5 A. (Witness complied.)

6 Q. At the top of the page there it talks
7 about lockouts for rest and meal periods. I think
8 we started to talk about this before, that the new
9 Jack's timekeeping system is set up to prevent
10 employees from clocking back in until they've
11 received their full 10-minute or 30-minute rest
12 period; is that right?

13 A. The only reason an employee would return
14 from a 10-minute or 30-minute ahead of time would be
15 due to the manager on duty had told them to come
16 back to work. This was to prevent people from simply
17 coming in and clocking in early from their
18 designated meal break.

19 Q. Okay. And I think we talked about that on
20 the previous system no one could clock in before 10
21 minutes but that anything after that was -- was
22 fine, there was no override; is that accurate?

23 A. That is my understanding of the time
24 clock.

25 Q. Okay. Would you go to page 720, please,

1 A. (Witness complied.)

2 Q. Second box from the top there it says,
3 "Assign meal periods and breaks." Would you read
4 what it says underneath there?

5 A. Yeah, under assign meal periods and
6 breaks, "Always assign breaks. Remember, the
7 schedule is used for planning and breaks should be
8 administered in consideration of the needs of the
9 business."

10 Q. Tell me what that means to you.

11 A. I think that continues out from what I
12 just said. It's that the restaurant is -- it's been
13 written as far as the schedule but there's --
14 there's always things that maybe -- when you're the
15 person in charge, you have to make the best decision
16 in the interest of the business, and maybe it's
17 become very busy in the morning. Trying to figure
18 out when these breaks should go out, you know, might
19 mean you deviate from that said schedule.

20 Q. Are they authorized to ask someone to come
21 back early from a meal period, for example, if it's
22 really busy?

23 A. Yes.

24 Q. And would that be like we saw earlier with
25 the on-duty meal policy where they would be able to

1 make that judgment call, we'll pay this person for
2 the entire meal break because we need them now for
3 the -- the restaurant?

4 A. Yeah, and the person in charge would have
5 to make that type of decision. That doesn't negate
6 the fact that they would need a full break still.

7 Q. This is a good time for a break.

8 THE VIDEOGRAPHER: The time is 2:42.

9 We are off the record.

10 (Whereupon, a brief recess was taken.)

11 THE VIDEOGRAPHER: We are back on the
12 record. This marks the beginning of video number
13 three in the deposition of Jeff Tennant. The time
14 is 2:59.

15 BY MR. EGAN:

16 Q. All right. Mr. Tennant, we are still
17 talking about the training materials for the
18 different levels of manager. If you will flip to
19 Bates page 1511, please.

20 A. Excuse me.

21 Q. Yeah. No. I think we're on to the next
22 volume. I can only fit 750 pages per notebook, so --
23 thanks.

24 A. You said 1511?

25 Q. Yes, please.

1 CERTIFICATE OF VIDEOGRAPHER

2
3 I the undersigned, Scott Gibson, am a videographer on
4 behalf of the NAEGLI REPORTING CORPORATION. I do hereby
5 certify that I have accurately made the video recording of
6 the deposition of Jeff Tennant, in the above captioned
7 matter on the 31st day of January, 2012, taken at the
8 location of 121 SW Morrison, Suite 900, Portland, OR.,
9 consisting of 3 DVD(s).

10
11 No alterations, additions or deletions were made
12 thereto.

13
14 I further certify that I am not related to any of the
15 parties in the action and have no financial interest in
16 outcome of this matter.

17
18
19 Scott Gibson

20 Videographer

21
22
23 1/31/2012

24 Date
25

1 CERTIFICATE

2
3 I, Mary T. Jacks, do hereby certify that pursuant to
4 the Rules of Civil Procedure, the witness named herein
5 appeared before me at the time and place set forth in the
6 caption herein; that at the said time and place, I
7 in stenotype all testimony adduced and other oral
8 proceedings had in the foregoing matter; and that the
9 foregoing transcript pages constitute a full, true and
10 correct record of such testimony adduced and oral
11 had and of the whole thereof.

12
13 IN WITNESS HEREOF, I have hereunto set my hand this
14 10th day of February, 2012.

15
16
17
18
19
20
21 /S/ Mary T. Jacks

22
23 Commission Expiration: October 15, 2014
24
25